



Western Canada Law

A concise handbook of the laws of Western Canada, as the same are applicable in the provinces of Alberta, Saskatchewan and Manitoba, together with other information of value to business men, farmers, secretaries, justices, police magistrates, and all other persons interested in the laws of Western Canada.

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PREFACE

Law in Western Canada is either (1) Dominion, or (2) Provincial. Dominion law applies all over Canada, including, of course, the Provinces of Alberta, Saskatchewan, and Manitoba. The provincial law, however, only applies in the Province in which it is enacted. This distinction between Dominion and Provincial law is very important. It arises from the fact that the Provinces were granted autonomy and they have the right to pass their own laws, and this is particularly so in regard to property and civil rights. Hence there is a great variation between the laws of the Provinces on some subjects. The criminal law, however, is of Dominion origin, and therefore is the same in all Provinces, though the criminal procedure is a little different in some of them.

There is, however, one body of law which always confuses the average reader. It is known as the "common law." It is law which one does not find on the statute books as a rule, but is administered on general principles of right and justice. Originally, it was the law common to the whole realm of England, and later became part of our western law. It is, in fact, the law of England still operating in Canada.

The reader should distinguish between Dominion and Provincial laws, and also between the law of one Province and that of another. These laws are all much

alike, but there are marked differences in effect. With this admonition I leave the reader to study the pages which follow, in the hope that he may receive some enlightenment upon the laws of the Province in which he lives, or, perhaps, contemplates living.

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CONTENTS

A.

ACTIONS	1
ADMINISTRATION OF ESTATES	3
AFFIDAVITS AND DECLARATIONS	11
AGENTS	12
ALIENS	21
ARBITRATION	24
ASSIGNMENTS	26
AUCTIONEERS	27

B.

BANKRUPTCY	29
BANKING AND MONEY	56
BILLS AND NOTES	60
BONDS	68
BRANDS	70

C.

CHATTEL MORTGAGES	93
CONTRACTS	96
COMPANIES	104
CORPORATION TAX	117

D.

DAIRY INDUSTRY	- - - - -	175
DESCENT AND DISTRIBUTION	- - - - -	191
DISTRESS	- - - - -	206
DOMESTIC ANIMALS	- - - - -	211
DOWER	- - - - -	217

E.

EXEMPTIONS	- - - - -	240
------------	-----------	-----

F.

FARM LOANS	- - - - -	260
FIRE INSURANCE	- - - - -	260
FRANCHISE	- - - - -	264

G.

GRAIN	- - - - -	278
GLOSSARY	- - - - -	579

H.

HAIL INSURANCE	- - - - -	298
HERD LAW	- - - - -	298
HOMESTEADS	- - - - -	302

I.

IMMIGRATION	- - - - -	312
INCOME TAX	- - - - -	314
INTEREST	- - - - -	332

J.

JUDGMENTS	- - - - -	336
JUVENILE DELINQUENTS	- - - - -	338

L.

LEASES AND TENANCIES - - - - -	355
LIEN NOTES - - - - -	360
LIFE INSURANCE - - - - -	372
LIMITATION OF ACTIONS - - - - -	375
LUXURY TAXES - - - - -	379

M.

MASTER AND SERVANT - - - - -	390
MILK - - - - -	394
MISCHIEVOUS ANIMALS - - - - -	397
MOTOR CARS - - - - -	399
MUNICIPAL HAIL INSURANCE - - - - -	401

N.

NATURALIZATION - - - - -	441
NOTARY PUBLIC - - - - -	451
NOTICE TO QUIT - - - - -	452

O.

OLEOMARGARINE - - - - -	454
-------------------------	-----

P.

PARTNERSHIPS - - - - -	456
POUND LAW - - - - -	461

R.

RENT - - - - -	486
RURAL CREDITS - - - - -	487

S.

STRAY ANIMALS	- - - - -	505
---------------	-----------	-----

W.

WILLS	- - - - -	524
WOMEN'S RIGHTS	- - - - -	527
WORKMEN'S COMPENSATION	- - - - -	529
WORDS AND LEGAL PHRASES	- - - - -	579

Western Canada Law

ACTIONS.

Actions.—An action is a proceeding in a court of law. It may be either civil or criminal. In all cases, whether civil or criminal, there is a plaintiff, and a defendant. The plaintiff is the person who commences the proceedings against the defendant. The defendant is the person against whom the claim is made. In criminal actions the King is always the plaintiff, as it is considered that all crimes are committed against the state. Of course, criminal proceedings may be commenced by private individuals, but in all cases the proceedings are continued in the King's name. In civil actions the commencement and continuation of the action is in the hands of the party who commences it. The state does not interfere in such actions.

Civil Actions.—Civil actions are brought for the purpose of obtaining some relief, or for the recovery of some debt which remains unpaid, or for the recovery of damages for some wrong done. It is obvious that some system must be adopted for carrying on civil actions, and the courts have gradually perfected this system until to-day it is possible to obtain relief or compensation for every wrong which causes injury to the individual. The method by which this relief or com-

pensation is recovered is a little intricate, and the carrying on of a civil action is, in itself, quite an undertaking. Consequently a private individual should not attempt to do this without proper legal advice. In fact, the cost of an action at law is considerable, and even though a party may be successful in his action he will nevertheless have money to pay out of his own pocket.

Criminal Actions.—Criminal actions are brought for the purpose of punishing individuals who commit crime. This is in the interest of the state, and the expense is usually borne by it. However, private individuals are required to give information of all crimes committed, and this is usually done by the laying of an information before a Justice of the Peace. The Justice of the Peace issues a summons for the defendant to appear before him, or, perhaps, the Justice issues a warrant, and in that case the defendant is arrested and brought before the Justice in custody. A day is fixed for the hearing, and the Justice then listens to the evidence in the case and decides whether the defendant is to stand his trial on the charge, or, perhaps, he may be able to deal with the case himself. It is a very serious matter to bring a criminal action against any person. If there is a want of reasonable and probable cause for bringing the case, the person who started the proceeding is likely to be sued civilly for damages for false imprisonment. It is essential, therefore, that any person laying a criminal charge should be guided by the interests of justice and not actuated by malice or spite. The criminal law cannot be used for such a purpose as getting even with a neighbour.

ADMINISTRATION OF ESTATES

Generally.—The estate of a deceased person must be administered. The person who administers the estate is either an executor or an administrator. An executor is named by the testator in his will. An administrator is appointed by the court. Immediately upon death the nearest relative of the deceased should see the deceased's legal adviser and supply him with all necessary information for obtaining the court's authority to administer the estate. This authority is in the form of a grant of Letters Probate in the case of the executor, and Letters of Administration in the case of an administrator.

Letters Probate.—The will of a deceased person must be proved. This is done by filing in the proper court the original will, together with certain affidavits and other documents setting out particulars as to date of death, place of residence before death, the length of such residence and an inventory of deceased's property, both real and personal. These documents are examined by a judge of the court, and if found in order the judge grants permission to the court officials to issue a document which is known as Letters Probate. Certain fees are payable for obtaining this document, the amount varying in accordance with the value of the estate. The fees must be paid before the Letters Probate can be issued by the officials.

Letters of Administration.—An administrator is required to obtain authority from the court before taking any steps in the administration of the estate. Bonds must be furnished to guarantee honest and efficient administration of the estate. Affidavits must be sup-

plied and fees paid before this authority will be issued. When issued it is in form of a grant of Letters of Administration.

Effect of Grant.—The effect of a grant of probate or Letters of Administration is to vest in the executor or administrator full power to deal with the deceased's estate according to law. The property which passes to the executor or administrator includes all real estate to which the deceased held title or to which he was in any way entitled, all personal effects, i.e., goods and chattels, debts due him, moneys due him in respect of contracts, but not claims for damages for personal injuries, which he could have sued upon in his lifetime. The executor or administrator may sue for any injuries to the real or personal estate of the deceased, provided such injuries were done within six months prior to the deceased's death. If the deceased was an executor of another estate or a trustee the office devolves upon his executor. In the case of a trustee the office devolves upon his executor or administrator.

Inventory of Estate.—The first duty of an executor or administrator is to make a complete inventory of all the property of the deceased. This inventory should be more detailed than the one filed on the application for probate or letters of administration, and should set out fully every species of property of which the deceased died possessed, and verified by some of the beneficiaries. It should be available for production whenever the court or an heir calls upon the executor to produce it.

Getting in Assets.—All moneys due the estate should be collected without delay. All investments of an

uncertain nature should be realized upon at once, as the executor will be liable for any loss due to delay in realizing upon such investments. Permanent investments on good security need not be disturbed. Perishable articles should be sold and all property liable to depreciate should be disposed of. The moneys so obtained should be placed in a bank, unless the executor has express power in the will or from the court to re-invest same on other securities.

Payment of Debts.—A notice must be published under order of the court in a local newspaper notifying creditors of the estate to send in a statement of their claims verified by statutory declaration or affidavit, and stating a time limit within which such creditors are required to send in their claims. Only creditors who send in claims within the time stated in such notice are entitled to be paid by the executor out of the assets of the estate. The first claims are the expenses of proving the will, funeral expenses and the costs of obtaining probate or letters of administration. Other debts are paid without preference, except those due secured creditors or claims for rent and taxes. If the assets of the estate are insufficient to meet all claims, the order of payment of claims would be similar to that in winding up the estate of an insolvent. Statute barred debts may be paid out, but the heirs should be consulted before such a payment is made, as the estate is not legally liable for such debts. Creditors must not be preferred unless their claims are secured. Creditors filing claims which the executor does not consider ought to be paid should be so notified. Such creditors will then be required to bring an action against the personal repre-

sentative in order to realize on their claims. The executor may retain out of the assets of the deceased a debt due to him by the deceased. Such debt may be a statute barred debt or a claim for damages for breach of contract.

Payment of Legacies.—Legacies are gifts of money, personal property, or effects, to persons mentioned in the will called legatees. Legacies can be paid out only after all claims against the estate filed with the executor within the proper time are paid. Legatees who are given a sum of money as a legacy payable out of the general estate are entitled to receive such legacy so long as there are any assets of the estate left after payment of debts, but legatees who receive a legacy of some specific thing, such as certain shares, certain articles of furniture, jewelry, etc., are not entitled to receive anything if it perishes before the testator's death. A legacy is payable to the legatee at the expiration of one year after the death of the deceased. Where a person who is indebted to the estate receives a legacy he must pay out of such legacy the debt he owes the estate. Legacies payable to executors, unless the will otherwise provides, are payable to them in satisfaction of what they are entitled to receive for acting as such executor. Legacies bear interest after one year from the deceased's death. Care should be taken not to pay any legacies until all creditors who have properly filed their claims are paid. A creditor who has not been paid can, in case the assets of the estate are all used up, proceed against a legatee who has been paid a legacy for the payment of his claim.

Devises of Real Estate.—Where a testator leaves a particular piece of real estate to a person or persons named in the will, such gift of land is called a devise, and the person receiving same is called a devisee. The devisee of such gift of land is entitled to receive title to same only after all properly filed claims and all legacies charged against such land are paid.

Residue.—The will should dispose, to a certain person called the residuary legatee, all the property real and personal not dealt with in the will. Where there is no such residuary legatee the residue goes to the next of kin in the same way as the property of a person who has not made a will.

Distribution of Estate Where no Will.—In the case of an intestacy the administrator acts much in the same way as an executor, getting in the assets of the deceased's estate and paying creditors. When all the estate is realized and, out of that, all creditors who have properly filed their claims have been paid the remaining estate is divided amongst the next of kin. The distribution does not require to be made until one year after death of the deceased, and no distribution should be made without the estate accounts being passed by the court. In this way every person entitled will obtain his share of the estate.

Powers and Liabilities of Executors and Administrators.—An executor has power to sell or mortgage all personal or real estate of the deceased to realize moneys with which to pay debts and legacies. He may also carry on the deceased's business if so ordered by the court or if the will so provides. He will only be liable for improper contracts made or where he carries

on the deceased's business without the court's consent or without any direction in the will. He has also power to borrow money, but this should only be done with the consent of the court. Property, real or personal, may, with the consent of the court, also be sold to pay those entitled in the case of intestacy. An executor also has power to compromise or settle, in any way he sees fit, claims of the estate and claims against the estate.

Executor's Liability for Debts, etc.—An executor is liable, as such, to the extent of the assets of the estate for all debts owing, by the deceased, at the time of his death, whether by contract or otherwise, but the estate is not liable for purely personal claims, such as those arising from a breach of promise of marriage, or from libel, fraud, seduction, etc. No servant of the deceased can claim against the estate any wages earned after the death of the deceased, unless specially provided in the contract. Damages for injuries to property of others caused by the deceased or his servants or agents within six months prior to his death may be claimed by the persons whose property is injured.

Deceased Partner's Debts.—The estate of a deceased partner of a firm is liable after the creditors of the deceased have been paid for all liabilities of the partnership incurred prior to the deceased's death, unless the creditors of the partnership agree to look to the surviving partners only.

Personal Liability of Executor.—An executor is personally liable if he contracts personally for the purchase of goods or other property or carries on the business of the deceased without authority under the will or from the court, or if he promise in writing to

answer for damages in respect of the deceased's estate out of his own property. An executor is also liable where he fails to realize on assets of the estate and loss thereby occurs; if he makes payment of legacies before debts are paid; if he pays debts he should not pay, or a larger amount on a legacy than he should pay; or if he fails to recover a debt due the estate which by diligence he could have recovered. He is only liable for loss to goods of the estate where he has been very careless and negligent in respect of such goods. In all cases the executor can escape liability by showing that he acted so far as he was able and as he considered in the best interests of the estate.

Acts of Other Executors.—An executor is not liable for loss in respect of moneys received by a co-executor or for acts of co-executors unless he concurs in such acts or does not attempt to prevent the loss.

Accounting for Estate.—An executor and also an administrator must, when ever required to do so and when the estate is finally wound up, render a full and complete account of his administration of the estate. He must show all assets of every kind which have come into his hands, all moneys received on account of the estate, all moneys paid out for debts, legacies, etc., and any assets still in his hands. These accounts are reviewed, examined and passed before the judge of the court in which probate or letters of administration were granted. For this purpose the judge appoints a day upon which the accounts are so passed and directs that all persons interested in the estate be notified and supplied with copies of the estate accounts so that they may attend before the judge if they desire. It is to

the best interests of all executors and administrators, and, indeed, all beneficiaries that these accounts should be passed upon by a judge.

Remuneration of Executors.—Executors are entitled to a fair sum for their care, pains and trouble in winding up the estate. This amount varies with the value of the estate and the work done, and is determined by the judge upon the passing of the executor's or administrator's accounts.

Succession Duties.—Before persons are entitled to receive the property given them by will or, where there is no will, as heirs of the intestate, they must, in most cases, pay a provincial tax called succession duty, which is graduated according to the net value of the property of the deceased, the value of the property taken under the will by the beneficiary, and the nearness of his or her relationship to the deceased. The Succession Duty Acts of the various Provinces differ in many details. The rates of duty and the cases where the same are payable are the subject of continual change. In each Province there is a Succession Duty Branch of the Government offices and accurate information on points in connection with succession duty can be obtained from the officials there. Letters probate and letters of administration can only be obtained after these succession duties are paid to the Provincial Treasurer or a satisfactory bond is given him to secure their payment.

AFFIDAVITS AND DECLARATIONS.

Affidavit.—An affidavit is a sworn statement, in writing, in a judicial matter, made by one or more persons called the deponent or deponents, before a notary public, a commissioner for taking oaths, a judge, justice of the peace, or other person, authorized to administer oaths. An affidavit used in judicial matters is headed in the cause or matter in which it is used, and the statements contained in it are divided into separate numbered paragraphs. It is written in the first person and the person making same swears before the officer taking the oath to the truth of the statements contained therein. The deponent states facts in the affidavit which he knows *of his own knowledge*. He may, in some instances, include matters of information and belief. The closing part of the affidavit, which states the place and date of swearing, is called the jurat. This closing part should never be allowed to contain blank spaces, nor should the affidavit be left incomplete. Alterations in words or erasures must be initialled by the officer taking the affidavit at the time of swearing. When the affidavit is to be used outside of the province in which it is sworn it must be made before a notary public, who should invariably place his seal upon the same near his signature.

Statutory Declarations.—In matters not before a court or not to be used in court proceedings, where it is desired to have certain facts verified, a statutory declaration is used. Statutory declarations are similar in form to affidavits, but instead of the person making the declaration stating that they are making the same on oath they say that they “do solemnly declare.”

Declarations can be made before officers who can swear affidavits, and the same rules as to paragraphing and alterations, etc., apply.

False Swearing.—Any person swearing any affidavit or making any statutory declaration knowing the facts stated therein to be false or incorrect is guilty of the crime of perjury and is liable, if found guilty, to serve a term of imprisonment of 14 years. It is necessary, therefore, that the person making the same should exercise great caution in the language used therein.

AGENTS

Agents.—The law permits individuals, partnerships, companies, municipal corporations, and other legally authorized bodies to enter into contracts through agents. It is obvious that if these parties were required to transact their business without agents, very little business could be transacted. An agent may be authorized to perform any act or enter into any transaction which the principal can do, but, being an agent, he cannot delegate to another any act or duty which he himself has been delegated to do. An agent should always have authority in writing, and where the principal wishes the agent to contract for him under seal, the agent should have a special authority under seal, with full power to act as his attorney. There are several kinds of agents, and their powers and duties are not all alike. Consequently there has arisen a body of law which defines and explains these rights and duties. This is the law of agency.

General Agents.—General agents are those who have authority to do an act for another in the usual course of

the business in which the principal is engaged. Partners are, usually, general agents for one another for the partnership purposes only. Managers of firms, etc., are usually considered general agents for the firm's business transactions.

Special Agents.—Special agents are those who have authority to act for a principal in some special transaction. Their power is limited to the completion of that special transaction only.

Factors.—Agents who do not buy goods outright, but are entrusted with them for sale, such as implement agents, farm and threshing machine agents, automobile agents, etc., are commonly known as factors. As such they have authority to sell the goods in their own name upon such terms as to credit, etc., as they see fit, and may warrant such goods and receive payment for the goods in cash, but not otherwise unless specifically authorized. They have not, unless specially authorized, authority to appoint sub-agents or to exchange goods or mortgage or pledge the goods in their charge.

Brokers.—Agents who buy and sell and negotiate agreements to buy and sell goods, shares in companies and debentures, etc., are brokers. They include stock brokers, real estate brokers, etc. As such they have authority to sign written agreements for their principals, arrange the terms of payment, and receive payment, in cash, for the principal. Brokers, however, have no authority (unless the principal specially gives it) to contract for the principal in their own name, or to cancel the principal's contracts, or to appoint sub-agents, or to sell shares in companies on credit or to receive payment in anything but cash.

Auctioneers.—Agents who sell goods by public auction are called auctioneers. They have authority to sign a contract for the principal, binding on him. When selling land or goods the auctioneer, after bringing down the hammer, usually makes out a memorandum of the sale. Such memorandum binds both seller and buyer, because the auctioneer is really acting as agent for both. As such they have no authority, except where specially authorized by the principal, to cancel a sale made or to warrant the goods sold, or to take a note in payment, or to sign the vendor's name to any contract except the contract for sale, or to sell by private sale or to deliver goods without payment.

Barristers and Solicitors.—These have authority to receive payment of a debt for which they were instructed to sue and to receive payment in respect of any agreement between the lawyer's client and another. They may settle actions entrusted to them, and enter into an agreement in reference to the suit, or settle an action after judgment. Solicitors, as such, have no authority, until authorized by the client, to commence a suit or to receive the price of property sold unless in the latter case the deed is produced.

Sub-Agents.—An agent cannot employ a sub-agent to do acts which his principal has instructed him to do. The principal may expressly permit the agent to employ a sub-agent, or it may be understood that sub-agents are to be appointed, or it may be necessary for the agent to do the work required of him through a sub-agent. Where an agent employs a sub-agent without the principal's express or implied authority, the principal is not liable for the sub-agent's acts. Whether the sub-

agent is or is not appointed by the authority of the principal, the principal does not become liable to the sub-agent for commissions unless the principal expressly agrees to become so liable.

Duties of Agents.—The agent must obey the principal's instructions, act in good faith and in his employer's best interests. He should keep his own, his principal's and other people's accounts separate and account and pay over to his principal all moneys received on his behalf. He must use such care, skill and diligence in his principal's affairs as he would in his own personal affairs.

Personal Interests and Profits.—Where in any transaction which the agent enters into for his principal, the agent has some personal interest in addition to the commission, etc., the principal pays him, he must disclose all the facts of his personal interest and if he makes any personal profit on the transaction, the principal may recover it from him or cancel the transaction. For instance, if the agent pretends another person is selling to the principal when he is himself the seller, the principal is not bound by the transaction, and if the agent makes a special profit on such a sale the principal can recover it back from him. In any transaction with his principal, the agent must disclose all the facts he knows about the transaction.

Agent Using Information.—An agent must not use the information he acquires as agent to the detriment of his principal.

Contracts Entered Into for Principal.—Where the agent transacts business for a principal and the person with whom he contracts knows he is only an agent for

the person named as principal, the agent incurs no personal liability at all.

Loss Suffered by the Principal Through Acts of Agent.—The agent will only be liable when he causes loss to his principal where the loss is caused by the agent's imprudence, carelessness or wilful disobedience of instructions or failure to do his duty. He will not be liable where he has exercised care and has followed his principal's instructions to the best of his ability. In any case he will only be liable for the actual loss suffered by the principal arising from his acts.

Bribes.—An agent who accepts a bribe to act contrary to his course of duty is liable to pay the bribe to his principal with interest, and to pay the principal any loss suffered by reason of such bribe, and to forfeit his commission and to be dismissed from service. The person bribing is liable with the agent for loss and may have his contract set aside.

Remuneration of Agents.—The principal is liable to pay the agent the remuneration agreed upon in the agency agreement. Where no particular remuneration is agreed upon, the agent should receive a reasonable reward.

Commission.—Where the services of the agent are to be paid for by a commission based upon the price of the article bought or sold, he is only entitled to the commission where he does all he was required to do by the contract between himself and his principal, and the sale or purchase is a result of what he does. Even though the transaction afterwards falls through, through no fault of the agent, and the principal acquires no benefit, the agent still may be entitled to his

commission, if he does all he is expected to do, and in some instances he may be entitled even though the transaction is completed and closed by another person. Where the principal wrongfully refuses to complete the transaction the agent is entitled to receive from the principal an amount of money equivalent to the commission he would have earned had the transaction gone through. An agent has no right to remuneration or commission in cases where:—

- (a) The agent was not authorized to act; or
- (b) The transaction in respect of which the commission is earned is unlawful, such as a wagering or lottery transaction; or
- (c) The agent makes a secret profit or earns some benefit unknown to his principal; or
- (d) The agent disobeys instructions or fails to perform his duty; or
- (e) Through the neglect or carelessness of the agent the principal derives no benefit from the transaction.

Losses and Expenses.—An agent has a right to be reimbursed his expenses and losses incurred by him in connection with his duties as agent, but it is doubtful if he has any right to recover such losses and expenses in cases where he has no right to commission.

Agent Binding Principal.—The principal is bound by all acts of the agent done in the usual course of the business which the agent is employed to transact even though the agent acted beyond his authority, so long as the person he deals with does not know he has no authority. However, the principal is not bound, where

the agent acts outside of the usual course of the business in which he is employed, unless the principal authorized such act, nor is he liable when the agent acts without authority and the person dealing with him knows he has no authority.

Agent Disposing of Goods, etc.—Where goods, bills or notes in the agent's possession are sold, mortgaged, pledged or otherwise disposed of by the agent the person receiving such goods or advancing money on them by way of mortgage usually acquires a good title unless he knows the agent had no authority from his principal to dispose of the goods.

Agents Signing Notes, etc.—The principal is liable for notes made and signed by the agent on his behalf and for accepted bills when drawn on the principal and accepted by the agent.

Agent Contracting as Principal.—Where the agent contracts with another person as though, he, the agent, were the real principal, or where he advises the other person that he is an agent of a principal, but does not disclose the real principal's name, both principal and agent are liable. But where the person dealt with knows who the principal is, but gives credit to the agent, the agent is liable.

Fraud, etc., of Agent.—A principal and agent are bound by all fraudulent representations and other false statements made with or without the intent to defraud by the agent in the course of the business in which he is employed, even though such fraudulent statements were not authorized by the principal.

Payments Made to Agents.—Persons paying agents in respect of debts due the principal do so at their peril

as such payments do not discharge a debt due by such persons to the principal unless such person has been led to believe that the agent is the real principal or that the agent has been authorized by the principal to receive payment.

Agents' Wrongs.—The principal is liable to all persons suffering loss by the wrongful or negligent acts of the agent done in the course of the business in which the agent is employed, even though the agent was not authorized to do such acts by the principal. The agent is also liable in respect of such losses.

Money, etc., Received.—The principal and agent are both liable to persons who deliver to the agent money or goods in the course of the business in which the agent is employed, if such goods, etc., are misapplied.

Notice to Agent.—Where the principal is required to be notified of some fact, notice to the agent is usually good notice to the principal.

When Agent Not Personally Liable.—When an agent contracts merely as an agent for a principal who is named in the contract, the agent is not liable where he does not bind himself personally.

When Agent Personally Liable.—The agent is liable when, although he contracts as agent, he binds himself personally, or when he contracts as agent for a principal whom he does not name, or when, although he acts on behalf of a principal he contracts as though he were the real principal. He is usually held liable on contracts under seal, even though he contracts as an agent. He is also liable when he contracts without any authority from a principal or where no principal exists.

Liability on Bills, Notes, etc.—The agent is liable on bills drawn on him and signed by him or on notes signed by him personally, but is not liable on bills drawn on the principal, although signed by him, or notes signed by him as agent of the principal.

Person Holding Himself Out as Agent.—Where a person, having no authority to act, holds himself out as an agent, such person is liable to any person suffering damage by reason of his being so induced to enter into a contract.

Agent Suing on Contracts.—An agent usually has a right to sue on all contracts, on which he is personally liable.

Wrongful Acts—An agent is personally liable for all losses he causes to persons through his carelessness, neglect or wrongdoing and for all misstatements of fact made by him unless he believed such false statements were true. He is not liable, however, for wrongful acts or losses caused by sub-agents unless he authorized them.

Termination of Agency.—An agency is terminated:—

- (a) If it is given for a particular transaction, by the completion of that transaction; or
- (b) If given for a limited period, by the expiration of that period; or
- (c) By the agency becoming unlawful; or
- (d) By principal and agent agreeing to terminate the agency; or
- (e) By the death, lunacy or insolvency of the principal or agent; or
- (f) By the principal or agent notifying the other that the agency is revoked.

Agency, When Not Terminated.—Where the agent's agreement is under seal, or the agency is for the purpose of securing some interest to the agent, or where the agent gives value for the agency or incurs any expense or liability under the agency or becomes liable to other persons on contracts on behalf of the principal, the agency cannot usually be terminated so long as the agent has not received the consideration he is entitled to, nor while the agent continues liable on obligations entered into by him on behalf of the principal.

ALIENS.

Alien.—An alien is a person who is not a British subject.¹

Acquiring and Disposing of Property.—Real and personal property of every description may be taken, acquired, held and disposed of by an alien in the same manner in all respects as by a natural born British subject.² A title to real and personal property of every description may be derived through, from or in succession to an alien in the same manner in all respects as through, from or in succession to a natural born British subject.³

Trials of Aliens.—An alien is triable in the same manner as if he were a natural born British subject.⁴

Wife of an Alien.—The wife of an alien is considered to be an alien also.⁵ She may, however, be naturalized

¹ Canada, The Naturalization Acts, 1914-1920.

² Canada, The Naturalization Acts, 1914-1920.

³ Canada, The Naturalization Acts, 1914-1920.

⁴ Canada, The Naturalization Acts, 1914-1920.

⁵ Canada, The Naturalization Acts, 1914-1920.

in the same way as if she was a single woman, but her naturalization does not affect the status of her children of alien male parentage, whether born before or after the date of her naturalization.⁶ As to the status of women voters, see *infra* FRANCHISE.

British Women Marrying Foreigners.—Where an alien is a subject of a state at war with His Majesty it is lawful for his wife, if she was at birth a British subject, to make a declaration that she desires to resume British nationality, and the Secretary of State of Canada, if he is satisfied that it is desirable that she be permitted to do so, may grant her a certificate of naturalization.⁷ Furthermore, where a man ceases during the continuance of his marriage to be a British subject, it is lawful for his wife to make a declaration that she desires to retain British nationality, and thereupon she is deemed to remain a British subject.⁸

Widows of Aliens.—A woman who, having been a British subject, has by or in consequence of her marriage become an alien, does not simply because of the death of her husband, or dissolution of her marriage, cease to be an alien.⁹ In the same way a woman who, having been an alien, has by or in consequence of her marriage become a British subject, does not, simply because of the death of her husband or the dissolution of her marriage, cease to be a British subject.¹⁰

Arms.—Every alien who has in his possession any pistol, rifle, shotgun, revolver, firearm or offensive

⁶ Canada, The Naturalization Acts, 1914-1920.

⁷ Canada, The Naturalization Acts, 1914-1920.

⁸ Canada, 1920, ch. 59, sec. 3 (5).

⁹ Canada, 1919, ch. 38, sec. 12.

¹⁰ Canada, 1919, ch. 38, sec. 12.

weapon must have a permit therefor.¹ This permit can only be issued by certain persons and must follow a particular form.²

Naturalization of Aliens.—A certificate of naturalization can be granted to an alien by the Secretary of State of Canada. The Secretary of State must be satisfied: (a) that the alien has either resided in His Majesty's dominions for a period of not less than 5 years, or been in the service of the Crown for not less than 5 years within the last 8 years before the application; (b) that the alien is of good character and has an adequate knowledge of the English or French language; and (c) that the alien intends to reside in His Majesty's dominions, or to enter or continue in the service of the Crown if his application is granted.³ The residence required for naturalization is residence in Canada for not less than one year immediately preceding the application, and previous residence either in Canada or some other part of His Majesty's dominions for a period of 4 years within the last 8 years before the application.⁴ Alien enemies, however, cannot, with certain exceptions, obtain naturalization until ten years after the present war, it having been especially provided that no certificate of naturalization shall before the expiration of a period of ten years after the termination of the present war, be granted in Canada to any subject of a country at war with His Majesty.⁵

¹ Canada, R.S.C. 1906, ch. 146, sec. 118; 1920, ch. 43, sec. 2.

² Canada, R.S.C. 1906, ch. 146, sec. 118; 1920, ch. 43, sec. 2.

³ Canada, 1914, ch. 44, sec. 2 (1).

⁴ Canada, 1914, ch. 44, sec. 2 (2).

⁵ Canada, 1920, ch. 59, sec. 7.

ARBITRATION.

Arbitration.—Arbitration is a method of settling disputes without recourse to law. The parties to the arbitration agree to submit their differences to some third party in whom both have confidence. Sometimes it is agreed that each party shall appoint one arbitrator, and that the two so appointed shall themselves decide on a third, known as an umpire. It is obvious that such a course, if carried out in a spirit of fairness, could settle many disputes which now find place in the civil courts. Matters which can be arbitrated include disputes as to amount of moneys due, damages suffered, wrongs committed, line fences, boundaries, and compensation for land taken for railway or government purposes.

Arbitration Agreement.—There must be an agreement to arbitrate the matter in dispute. This agreement should be in writing, signed and sealed by all parties. It is essential that it should be properly drawn up because where parties have once agreed to arbitrate neither of them is allowed to carry on an action at law respecting the dispute while the arbitration is in effect. If such an action is commenced by one party, the other is entitled to make an application to the courts to have such action stayed until the arbitration is completed.

How Arbitration is Arranged.—The agreement to arbitrate should be prepared by a lawyer. It usually contains recitals of the matters referred to arbitration, and makes provision for appointing any new arbitrators. The parties usually agree to abide by the arbitrators' award and also agree not to bring any action upon the matter in dispute. The agreement should provide that the arbitration is subject to the terms and

conditions contained in the Arbitration Act of the Province in which the arbitration is to take place. There is usually only one arbitrator. He is called a sole arbitrator. When two arbitrators are appointed the Arbitration Acts provide for the appointment of a third person, called the umpire. The time and manner in which the arbitrators make their award, the examination of witnesses, the production of papers, etc., are also subjects of statutory provision. These provisions will be found in the Provincial Arbitration Act.

Who May be Arbitrators.—The parties may appoint whomsoever they please to act as arbitrator. Where the agreement does not otherwise provide, the reference is to be before a single or sole arbitrator. Where the agreement provides for three arbitrators, one is usually appointed by each party, and the third, called the umpire, is appointed by the parties or by the two arbitrators, or, if they fail to so appoint, the court may appoint the third arbitrator. Vacancies are filled by the parties, or if they fail to do so, by the court. The court may remove arbitrators for misconduct.

Procedure on an Arbitration.—The arbitrators appointed in the agreement, after consulting the convenience of the parties, fix a time and place for the arbitration and notify both parties. If one party does not attend at the arbitration after due notice, the arbitrators sometimes proceed with the arbitration. In all other cases both parties must be present at the arbitration. The parties to the dispute may either handle their own case or employ a solicitor to handle it for them. Witnesses, if any, are called and their evidence given before the arbitrators, documents are produced and

arbitration is conducted, in practically the same way as in ordinary cases in court, the arbitrators having the power to call witnesses, adjourn the hearing, etc. The third arbitrator is called in to give a decision only on matters upon which the two arbitrators do not agree. The decision of the arbitrators is set out in a document called the award. The award is usually equivalent to a judgment of a court, and both parties to the arbitration are bound by it in the same way as by a judgment. A time may be fixed within which the arbitrators are to make their award, but usually this is not the case. The award should settle all matters in dispute.

ASSIGNMENTS.

Assignments.—Any insolvent debtor whose liabilities to creditors provable as debts under the Bankruptcy Act of Canada, exceed \$500, may at any time prior to the making of a receiving order against him, make to an authorized trustee appointed pursuant to Sec. 14 of the Act, with authority in the locality of the debtor, an assignment of all his property for the general benefit of his creditors.¹ Every such authorized assignment is valid and sufficient if it is in the form provided by the general rules under the Bankruptcy Act, or in words to the like effect.² An assignment so expressed has the effect, subject to the rights of secured creditors, to vest in the authorized trustee all the property of the assignor at the time of the assignment, excepting such thereof as is held by the assignor

¹ Canada, The Bankruptcy Acts, 1919-1920.

² Canada, Annual Statutes, 1919, ch. 36, sec. 10.

in trust for any other person, and such thereof as is, against the assignor, exempt from execution or seizure under legal process in accordance with the laws of the Province within which the property is situate and within which the debtor resides.³ (See BANKRUPTCY.)

AUCTIONEERS

Auctioneers.—An auctioneer may be appointed by writing or word of mouth. He cannot sell below the reserve price (if any), and unless expressly instructed by the seller of the goods he is not in a position to accept payment otherwise than in cash. He has no authority to make any warranty as to the goods except as expressly authorized by the seller. The auctioneer's authority is at an end when the sale is over, but can be terminated by the seller of the goods at any time before the goods are finally knocked down, but not afterwards. He has authority from both seller and purchaser to sign a contract which is binding on them both after the property is knocked down.

Statements.—Statements made by an auctioneer concerning the article sold are binding on the seller, unless the contract of sale is one which must be in writing, and then only the terms in the written contract are binding. These terms are usually contained in a written document called the conditions of sale. If the auctioneer signs such contract for both parties, no other terms or conditions can be enforced by either party. The conditions of the sale are generally read or made public to the persons attending the auction. They are

³ Canada, Annual Statutes, 1919, ch. 36, sec. 10.

binding upon the seller, the auctioneer and the persons bidding.

Bidding.—Any person may recall his bid, or the seller of the property may withdraw it from sale at any time before the hammer falls. Where there is a reserve bid, the property is not sold unless the highest bid is equal to, or more than, the reserve bid.

Deposit.—One of the usual conditions of sale is the payment of a deposit on the article purchased. The payment should be made to the auctioneer, who has authority to receive it, and who must account therefor to the seller.

Duties.—If the auctioneer fails to perform his duties as auctioneer and the owner of the goods suffers loss in consequence, he will be liable to such owner for all such loss. He must take proper care of the goods entrusted to him. He must not part with the goods until the purchaser has paid the price therefor. He must re-deliver all unsold goods after the sale to the seller. Whenever there is a sale he must make a binding contract for both parties. He cannot himself purchase the seller's goods unless the seller consents to his doing so. He must account to the seller for all goods and money coming into his hands belonging to the seller.

Remuneration.—The auctioneer's remuneration is fixed by agreement with the seller. If the sale is called off by the seller before the property is sold, he is entitled to his expenses and a reasonable fee. He has a lien or right to hold the seller's goods until he is paid what is due him. He has a right to be indemnified for all expenses incurred by him as auctioneer.

Liability.—An auctioneer incurs no liability to a purchaser unless he sells as owner of the goods or does not disclose the name of the real owner. Any dealing with goods by an auctioneer, such as selling them, loaning or mortgaging them, consuming them, etc., renders the auctioneer liable to the owner for the loss suffered by him.

BANKRUPTCY.

I. Assignments.

Generally.—Assignments are now made under the bankruptcy law.¹ Any insolvent debtor whose liabilities to creditors, provable as debts under *The Bankruptcy Act*, exceed five hundred dollars, may, at any time prior to the making of a receiving order against him, make to an authorized trustee having authority in the locality of the debtor, an assignment of all his property for the general benefit of his creditors. An assignment so made is referred to as an "authorized assignment," and every assignment of his property other than an authorized assignment made by an insolvent debtor for the general benefit of his creditors is null and void. Every authorized assignment is valid and sufficient if it is in the form provided by the Bankruptcy Rules or in words to the like effect; and an assignment so expressed vests (subject to the rights of secured creditors) in the trustee all the property of the assignor at the time of the assignment, excepting such thereof as is held by the assignor in trust for any other person, and such thereof as is, against the assignor, exempt from execution or seizure under legal

¹ Dominion, Bankruptcy Acts, 1919, 1920.

process in accordance with the laws of the province within which the property is situate and within which the debtor resides.²

Attachments, Executions, etc.—Every receiving order and every authorized assignment takes precedence over,—

- (1) all attachments of debts by way of garnishment, unless the debt involved has been actually paid over to the garnishing creditor or his agent; and,
- (2) all other attachments, executions or other process against property, except such thereof as have been completely executed by payment to the execution or other creditor;

but are subject to a lien for one only bill of costs, including sheriff's fees, payable to the garnishing, attaching, or execution creditor who has first attached by way of garnishment or lodged with the sheriff an attachment, execution or other process against property.³ An execution levied by seizure and sale on and of the goods of a debtor is not invalid by reason ~~only~~ of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale by the sheriff, in all cases, acquires a good title to them against the authorized trustee.⁴ If an authorized assignment or a receiving order has been made, the sheriff or other officer of any court having seized property of the debtor under execution or attachment or any other process, must, upon receiving a copy of the assignment certified by the trustee named therein or of the receiving order certified by the registrar or other

² Dominion, 1919, ch. 36, sec. 9, 10.

³ Dominion, 1920, ch. 34, sec. 6.

⁴ Dominion, 1919, ch. 36, sec. 11 (2).

clerical officer of the court which made it, forthwith deliver to the trustee all the property of the execution debtor in his hands, upon payment by the trustee of his fees and charges and the costs of execution creditor who has a lien as above provided. If the sheriff has sold the debtor's estate or any part thereof, he must deliver to the trustee the moneys so realized by him, less his fees, and the said costs.⁵

Notice of Assignment to be Published.—No receiving order or authorized assignment or other document made or executed is within the operation of any legislative enactment now or at any time in force in any Province of Canada relating to deeds, mortgages, judgments, bills of sale, chattel mortgages, property or registration of documents affecting title to or liens or charges upon property real or personal, immovable or movable; but a notice in the prescribed form of such receiving order or assignment and of the first meeting of creditors required to be called pursuant to the Act must, as soon as possible after the making or executing of such receiving order or assignment, be gazetted, and not less than six days prior to said meeting be published in a local newspaper.⁶ The registrars of the courts of bankruptcy, the registrars of all land title and land registration offices and the recorders or clerks of all courts and offices wherein any documents of title relating to property are, according to the provisions of the Act or of the law of a province, registered, recorded or filed, must keep on file for public reference a copy of each issue of the *Canada Gazette* which contains any notice or notices, of, incident to or resulting from receiving

⁵ Dominion, 1919, ch. 36, sec. 11 (3).

⁶ Dominion, 1919, ch. 36, sec. 11 (4).

orders or authorized assignments referring to bankrupts or assignors who resided or carried on business in the Province wherein the said courts or offices are situated.⁷ They must also keep an index book and enter alphabetically the name of each bankrupt and authorized assignor who resided or carried on business in such Province prior to the date of the receiving order or assignment, and in respect of whose estate a notice may at any time hereafter appear in the said *Canada Gazette*.⁸ A fee not exceeding twenty-five cents for each search and fifty cents for each certificate may be charged by such registrar, recorder or clerk. The King's Printer, upon request of any person who is by this Act required to keep on file for public reference a copy of the *Canada Gazette*, will regularly supply to such person, *gratis*, two copies of every issue of such Gazette.

Assignment to be Registered in Proper Registry.—

Every receiving order and every authorized assignment (or a true copy certified as to such order by the registrar or other clerical officer of the court which has made it, and as to such assignment certified by the trustee therein named) must be registered or filed by or on behalf of the trustee in the proper office in every district, county or territory in which the whole or any part of any real or immovable property which the bankrupt or assignor owns or in which he has any interest or estate is situate. The proper office is the land titles office, land registration office, registry office or other office wherein, according to the law of the province, deeds or other documents of title to real or

⁷ Dominion, 1919, ch. 36, sec. 11 (5).

⁸ Dominion, 1919, ch. 36, sec. 11 (5).

immovable property may or ought to be deposited, registered or filed. From and after such registration or filing or tender thereof within the proper office to the registrar or other proper officer, such order or assignment has precedence of all certificates of judgment, judgments operating as hypothecs, executions and attachments against land (except such thereof as have been completely executed by payment) within such office or within the district, county or territory which is served by such office, but subject to a lien for the costs of registration and sheriff's fees, of such judgment, execution or attaching creditors as have registered or filed within such proper office their judgments, executions or attachments.⁹

Affidavit Following Registration.—Every registrar or other officer for the time being in charge of the proper office to whom any trustee shall tender or cause to be tendered for registration or filing any such receiving order or authorized assignment must register or file the same according to the ordinary procedure for registering or filing within such office documents which evidence liens or charges against real or immovable property (and subject to payment of the like fees) if at the time of the tender of such document for such purpose there be tendered annexed thereto as part thereof an affidavit substantially in the following form:—

"In the matter of The Bankruptcy Act."

"Canada

"Province of

"I

of

in the province of
, make oath and say—

"That the hereunto annexed document is tendered for

"registration (or filing) under the authority and direction of
of
in the province of

⁹ Dominion, 1919, ch. 36, sec. 11 (10).

, a duly appointed trustee under

"The Bankruptcy Act.
 "Sworn before me at.....
 "in the province of.....
 "this day of.....19....."

Such affidavit may be sworn before such registrar or other officer, or before a notary public or a commissioner authorized to administer oaths for use in any of the courts of the province. Any registrar or other officer, who upon tender of any such receiving order or assignment or a copy thereof, certified as aforesaid, with the proper fees, and with the request that such document be registered or filed as aforesaid, refuses or omits to forthwith register or file the same in manner hereinbefore indicated or who omits or refuses to comply with the provisions so far as they are applicable to him, is punishable. If the receiving order or authorized assignment is not registered, or filed, or if notice of said receiving order or assignment is not published within the time and in the manner prescribed by this section, an application may be made by any creditor or by the debtor to compel the registration or filing of the receiving order or assignment, or publication of such notice, and the judge makes his order in that behalf with or without costs, or upon the payment of costs by such person as he may, in his discretion, direct to pay the same. The judge may, in his discretion, impose a penalty on the trustee for any omission, neglect or refusal to so register, file, or publish as aforesaid, in an amount not exceeding the sum of five hundred dollars, and such penalty when imposed is forthwith to be paid by the trustee personally into and for the benefit of the estate of the debtor.¹⁰

Assignment Not Invalidated by Omission to Register.

—Saving and preserving the rights of innocent purchasers for value, neither the omission to publish or register, nor any irregularity in the publication or registration, invalidates the assignment or affects or prejudices the receiving order.¹¹ No advantage can be taken of or gained by any creditor through any mistake, defect or imperfection in any authorized assignment or in any receiving order or proceedings connected therewith, if the same can be amended or corrected; and any mistake, defect or imperfection may be amended by the court. Such amendment may be made on application of the trustee or of any creditor on such notice being given to other parties concerned as the judge may think reasonable; and the amendment when made relates back to the date of the assignment or petition in bankruptcy, but not so as to prejudice the rights of innocent purchasers for value.¹²

II. Creditor's Petitions:

Generally.—If a debtor commits an act of bankruptcy a creditor may present to the court a bankruptcy petition.¹³ A debtor commits an act of bankruptcy in each of the following cases:—

- (1) If in Canada or elsewhere he makes an assignment of his property to a trustee or trustees for the benefit of his creditors generally, whether it is an assignment authorized by *The Bankruptcy Act*, or not;
- (2) If in Canada or elsewhere he makes a fraudu-

¹¹ Dominion, 1919, ch. 36, sec. 11 (15).

¹² Dominion, 1919, ch. 36, sec. 12.

¹³ Dominion, 1913, ch. 36, sec. 4 (1).

lent conveyance, gift, delivery, or transfer of his property, or of any part thereof;

- (3) If in Canada or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would under this Act be void as a fraudulent preference if he were adjudged bankrupt;
- (4) If with intent to defeat or delay his creditors he does any of the following things, namely, departs out of Canada, or, being out of Canada, remains out of Canada, or departs from his dwelling house or otherwise absents himself, or begins to keep house;
- (5) If he permits any execution or other process issued against him under which any of his goods are seized, levied upon or taken in execution to remain unsatisfied until within four days from the time fixed by the sheriff for the sale thereof, or for fourteen days after such seizure, levy or taking in execution, or if the goods have been sold by the sheriff or the execution or other process has been held by him after written demand for payment without seizure, levy or taking in execution or satisfaction by payment for fourteen days, or if it is returned endorsed to the effect that the sheriff can find no goods whereon to levy or to seize or take; provided that where interpleader proceedings have been instituted in regard to the goods seized, the time elapsing between the date at which such proceedings were instituted and the date at which such proceedings are finally disposed of, settled or abandoned,

shall not be taken into account in calculating any such period of fourteen days;

- (6) If he exhibits to any meeting of his creditors any statement of his assets and liabilities which shows that he is insolvent, or presents or causes to be presented to any such meeting a written admission of his inability to pay his debts;
- (7) If he assigns, removes, secretes or disposes of or attempts or is about to assign, remove, secrete or dispose of any of his goods with intent to defraud, defeat or delay his creditors or any of them;
- (8) If he makes any bulk sale of his goods without complying with the provisions of any Bulk Sales Act applicable to such goods in force in the province within which he carries on business or within which such goods are at the time of such bulk sale.¹⁴

Affidavit.—The petition must be verified by affidavit and be served on the debtor in the prescribed manner.¹⁵

Conditions on which Creditor May Petition.—A creditor cannot present a bankruptcy petition against a debtor unless,—

- (1) the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors amounts to five hundred dollars; and,
- (2) the act of bankruptcy on which the petition is

¹⁴ Dominion, 1919, ch. 36, sec. 3.

¹⁵ Dominion, 1920, ch. 34, sec. 4.

grounded has occurred within six months before the presentation of the petition.¹⁶

Hearing Petition.—The petition must be presented to the court having jurisdiction in the locality of the debtor. At the hearing the court requires proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with the proof, may adjudge the debtor a bankrupt and in pursuance of the petition, make an order, in this Act called a receiving order, for the protection of the estate. If the court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or, in case an authorized assignment has been made, that the estate can be best administered under the assignment, or that for other sufficient cause no order ought to be made, it may dismiss the petition.¹⁷

Stay of Proceedings.—Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the court, on such security (if any) being given as the court may require for payment to the petitioner of any debt which may be established against him in due course of law and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as

¹⁶ Dominion, 1919, ch. 36, sec. 4 (3).

¹⁷ Dominion, 1919, ch. 36, sec. 4 (4), 4 (5), 4 (6).

may be required for trial of the question relating to the debt. Where proceedings are stayed, the court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and thereupon dismiss (on such terms as it thinks just) the petition in which proceedings have been stayed.¹⁸

Petition Cannot be Withdrawn.—A creditor's petition cannot, after presentment, be withdrawn without the leave of the court.¹⁹

Commencement of Bankruptcy.—The bankruptcy of a debtor is deemed to have relation back to and to commence at the time of the service of the petition on which a receiving order is made against him.²⁰

III. Duties of Bankrupt.


Generally.—²¹The debtor must give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them, respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on his trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors as may be reasonably required by the trustee, or may be prescribed by the Bankruptcy Rules, or may be directed by the court by any special order or orders made in reference to any particular case or

¹⁸ Dominion, 1919, ch. 36, sec. 4 (8).

¹⁹ Dominion, 1919, ch. 36, sec. 4 (9).

²⁰ Dominion, 1919, ch. 36, sec. 4 (10).

²¹ Dominion, 1919, ch. 36, sec. 54.



made on the occasion of any special application by the trustee or any creditor or person interested.²²

Debtor to Submit Statement.—Where a receiving order or an authorized assignment is made, the bankrupt or assignor must make out and submit to the trustee a statement of and in relation to his affairs in the prescribed form, verified by affidavit and showing the particulars of the debtor's assets, debts, and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the trustee may require. Such statement must be submitted within seven days from the date of the receiving order or assignment, but the court may, for special reasons, extend the time.²³ Any person stating himself in writing to be a creditor of the bankrupt or assignor, may personally or by agent inspect the statement at all reasonable times and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor is guilty of a contempt of court, and punishable accordingly on the application of the trustee.²⁴

IV. Debts and Claims.

Generally.—Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust, are not provable in bankruptcy or in proceedings under an authorized assignment. Save as aforesaid, all debts and liabilities, present or future, to which the debtor is subject at the

²² Dominion, 1919, ch. 36, sec. 54 (4).

²³ Dominion, 1919, ch. 36, sec. 54 (1).

²⁴ Dominion, 1919, ch. 36, sec. 54 (?).

date of the receiving order or the making of the authorized assignment or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order or of the making of the authorized assignment, are provable in bankruptcy or in proceedings under an authorized assignment.¹ The court values (at the time and in the summary manner prescribed by General Rules) all contingent claims and all such claims for unliquidated damages, and after, but not before, such valuation, every such claim is for all purposes of the Act, deemed to be a proved debt to the amount of its valuation.²

Proof of Debts.—Every creditor must prove his debt as soon as may be after the making of a receiving order or after the date of an authorized assignment, or as soon as possible after such creditor has received notice of meeting for considering a composition, extension or scheme of arrangement. A debt may be proved by delivering or sending through the post in a prepaid and registered letter to the trustee, a statutory declaration verifying the debt. The statutory declaration may be made by the creditor himself or by some person authorized by or on behalf of the creditor. If made by a person so authorized, it shall state his authority and means of knowledge. The statutory declaration must contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The trustee may at any time call for the production of the vouchers. The statutory declaration must state whether the creditor is or is not a secured

¹ Dominion, 1919, ch. 36, sec. 44.

² Dominion, 1919, ch. 36, sec. 44 (3).

creditor. Every creditor who has lodged a proof is entitled to see and examine the proofs of other creditors before the first meeting, and at all reasonable times.³

Secured Creditors.—If a secured creditor *realizes* his security, he may prove for the balance due to him, after deducting the net amount realized. If a secured creditor *surrenders* his security to the trustee for the general benefit of the creditors, he may prove for his whole debt. If a secured creditor does not either realize or surrender his security, he must within thirty days of the date of the receiving order, or of the making of the authorized assignment, or within such further time as may be allowed by the inspectors, or in case they refuse, then within such further time as may be allowed by the court, file with the trustee a statutory declaration stating therein full particulars of his security or securities, the date when each security was given, and the value at which he assesses each thereof. He is entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.⁴ Where a security is so valued the trustee may at any time redeem it on payment to the creditor of the assessed value. If the trustee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the trustee, or as, in default of such agreement, the court may direct. If the sale be by

³ Dominion, 1919, ch. 36, sec. 45; 1920, ch. 34, sec. 12.

⁴ Dominion, 1919, ch. 36, sec. 46.

public auction the creditor, or the trustee on behalf of the estate, may bid or purchase.⁵

Husband's and Wife's Claims.—Where a *married woman* has been adjudged bankrupt or has made an authorized assignment, her husband is not entitled to claim any dividend as a creditor in respect of any money or other estate hereafter lent or entrusted by him to his wife for the purposes of her trade or business, or claim any wages, salary or compensation for work hereafter done or services rendered in connection with her trade or business, until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied. Where the *husband* of a married woman has been adjudged bankrupt or has made an authorized assignment, his wife cannot claim any dividend as a creditor in respect of any money or other estate hereafter lent or entrusted by her to her husband for the purposes of his trade or business, or claim any wages, salary or compensation for work hereafter done or services rendered in connection with his trade or business, until all claims of the other creditors of her husband for valuable consideration in money or money's worth have been satisfied.⁷

Wage Claims of Relatives.—Where any person or firm has been adjudged bankrupt or has made an authorized assignment, the father, son, daughter, mother, brother, sister, uncle or aunt of any such person or of any member of said firm cannot claim by way of dividend or otherwise from the trustee any wages,

⁵ Dominion, 1919, ch. 36, sec. 46 (4).

⁶ Dominion, 1919, ch. 36, sec. 46(5).

⁷ Dominion, 1919, ch. 36, sec. 48.

salary or compensation for work hereafter done or services rendered to said person or firm exceeding an amount equal to three months' wages, salary or compensation, until all claims of the other creditors of said person or firm for valuable consideration in money or money's worth have been satisfied.⁸

Wage Claims of Shareholders and Directors.—Where any corporation has been adjudged bankrupt or has made an authorized assignment no officer, director or shareholder thereof is entitled to claim by way of dividend or otherwise from the trustee any wages, salary or compensation for work hereafter done or services hereafter rendered to such corporation exceeding an amount equal to three months' wages, salary or compensation, until all claims of the other creditors of said corporation for valuable consideration in money or money's worth have been satisfied.⁹

Interest on Debts.—On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order or authorized assignment and provable under this Act, the creditor may prove for interest at a rate not exceeding six per cent. per annum to the date of the order or authorized assignment from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that inter-

⁸ Dominion, 1919, ch. 36, sec. 48 (3).

⁹ Dominion, 1919, ch. 36, sec. 48 (4).

est will be claimed from the date of the demand until the time of payment.¹⁰

Disallowance of Claims.—The trustee shall examine every proof and the grounds of the debt, and may require further evidence in support of it. If he considers the claimant is not entitled to rank on the estate, or not entitled to rank for the full amount of his claim, or if directed by a resolution passed at any meeting of creditors or inspectors, he may disallow the claim in whole or in part, and in such case gives to the claimant a notice of disallowance. The notice may be given either by serving the claimant with a copy personally or by mailing such copy in a registered prepaid letter, addressed to the claimant at his last-known address, or at the address shown in or by the claimant's proof. Such disallowance is final and conclusive unless within thirty days after the service or mailing of the said notice or such further time as the court may on application made within the same thirty days allow, the claimant appeals to the court in accordance with General Rules from the trustee's decision. The court may also expunge or reduce a proof upon the application of a creditor or of the debtor, if the trustee declines to interfere in the matter.

V. Distribution of Property.

Generally.—In the distribution of the property of the bankrupt or authorized assignor, payments are made in the following order of priority,—

1. The fees and expenses of the trustee;
2. The costs of the execution creditor (including

¹⁰ Dominion, 1919, ch. 36, sec. 49.

sheriff's fees and disbursements) coming within the provisions of section eleven, subsections one and ten of *The Bankruptcy Act*.

3. All wages, salaries, commission or compensation of any clerk, servant, travelling salesman, labourer or workman in respect of services rendered to the bankrupt or assignor during three months before the date of the receiving order or assignment.

Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts are discharged forthwith so far as the property of the debtor is sufficient to meet them.⁷

Partners and Separate Estates.—In the case of partners the joint estate is applicable in the first instance in payment of their joint debts, and the separate estate of each partner is applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estate, it is dealt with as part of the respective separate estates. If there is a surplus in the joint estate, it is dealt with as part of the respective estates in proportion to the right and interest of each partner in the joint estate.⁸

Equal Payment.—All debts proved in the bankruptcy or under an assignment are paid *pari passu*⁹ (i.e., equally).

Surplus.—If there is any surplus after payment of the above debts, it is applied in payment of interest from the date of the receiving order or assignment at the rate of six per cent. per annum on all debts proved in the bankruptcy or under the assignment.¹⁰

⁷ Dominion, 1919, ch. 36, sec. 51.

⁸ Dominion, 1920, ch. 34, sec. 13.

⁹ Dominion, 1919, ch. 36, sec. 51 (4).

¹⁰ Dominion, 1919, ch. 36, sec. 51 (5)

Taxes.—Nothing interferes with the collection of any taxes, rates or assessments now or at any time hereafter payable by or levied or imposed upon the debtor or upon any property of the debtor under any law of the Dominion, or of the province wherein such property is situate, or in which the debtor resides, nor prejudices or affects any lien or charge in respect of such property created by any such laws.¹¹

Rent.—Where the bankrupt or authorized assignor is a tenant having goods or chattels on which the landlord has distrained, or would be entitled to distrain, for rent, the right of the landlord to distrain or realize his rent by distress ceases from and after the date of the receiving order or authorized assignment, and the trustee is entitled to immediate possession of all the property of the debtor, but in the distribution of the property of the bankrupt or assignor the trustee must pay to the landlord *in priority to all other debts*, an amount not exceeding the value of the distrainable assets, and not exceeding three months' rent accrued due prior to the date of the receiving order or assignment, and the costs of distress, if any.¹² The landlord may prove as a general creditor for (i) all surplus rent accrued due at the date of receiving order or assignment; and (ii) any accelerated rent to which he may be entitled under his lease, not exceeding an amount equal to three months' rent.¹³ Except as aforesaid the landlord is not entitled to prove as a creditor for rent for any portion of the unexpired term of his lease, but the trustee must pay to the landlord for the period during

¹¹ Dominion, 1919, ch. 36, sec. 51 (6).

¹² Dominion, 1919, ch. 36, sec. 52 (1).

¹³ Dominion, 1919, ch. 36, sec. 52 (2).

which he actually occupies the leased premises from and after the date of the receiving order or assignment, a rental calculated on the basis of said lease.¹⁴ In case of continued occupation by the trustee of the leased premises for the purposes of the trust estate any payment of accelerated rent made to the landlord must be credited to the occupation of the trustee.¹⁵ Notwithstanding any provision or stipulation in any lease or agreement, where a receiving order or an authorized assignment has been made, the trustee may within one month from the date of any such receiving order or assignment, by notice in writing signed by him given to the landlord, elect to retain the premises occupied by the bankrupt or assignor at the time of the receiving order or assignment for the unexpired term of any lease under which such premises were held or for such portion of the term as he shall see fit, upon the terms of the lease and subject to payment of the rent therefor provided by such lease or agreement, or he may disclaim the lease or agreement. Should the trustee not give such notice within the time hereinbefore provided, he is deemed to have disclaimed the lease or agreement.¹⁶ If the trustee so elects to retain such premises for such unexpired term or portion thereof and the provisions of the lease do not preclude the lessee from assigning the term or subletting the premises the trustee has power to assign or sublet for the unexpired term.¹⁷ The entry into possession of the premises by the trustee during the said period of one month is not deemed to be evidence of an intention on

¹⁴ Dominion, 1919, ch. 36, sec. 52 (3).

¹⁵ Dominion, 1919, ch. 36, sec. 52 (4).

¹⁶ Dominion, 1919, ch. 36, sec. 52 (5).

¹⁷ Dominion, 1919, ch. 36, sec. 52 (6).

the part of the trustee to elect to retain the premises nor affect his right to disclaim the lease or agreement.¹⁸

VI. Discharge.

Generally.—Any debtor may, at any time after being adjudged bankrupt or making an authorized assignment, apply to the court for an order of discharge, to become effective not sooner than three months next after the date of his being adjudged bankrupt or of his making such assignment, and the court appoints a day for hearing the application. A bankrupt or authorized assignor intending to apply for his discharge must produce to the registrar of the court a certificate from the trustee specifying the names and addresses of his creditors of whom the trustee has notice (whether they have proved or not) and it is the duty of the trustee to furnish such certificate upon request therefor by the bankrupt or authorized assignor. The registrar, not less than twenty-eight days before the day appointed for hearing the application, gives to the trustee notice of the application and of the time and place of the hearing of it, and the trustee, not less than fourteen days before the day appointed for hearing the application, gives to each creditor who has proved his debt like notice.¹

Trustee's Report.—The trustee files with the registrar of the court, at least three days before the day appointed for hearing the application, his report as to the conduct and affairs of the bankrupt or assignor (including a report as to the conduct of the bankrupt

¹⁸ Dominion, 1919, ch. 36, sec. 52 (7).

¹ Dominion, 1919, ch. 36, sec. 58.

or assignor during the proceedings under his bankruptcy or assignment). If the bankrupt or assignor has been examined, the trustee also files such examination, and reports to the court any fact, matter or circumstance which would, under the Act, justify the court in refusing an unconditional order of discharge.² On the hearing of the application the court takes into consideration the report of the trustee, and either grants or refuses an absolute order of discharge or suspends the operation of the order for a specified time, or grants an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt or authorized assignor or with respect to his after-acquired property.³

Powers of Court.—The court refuses the discharge in all cases where the bankrupt or authorized assignor has committed any offence under the Act or any offence connected with his bankruptcy or assignment or the proceedings thereunder, unless for special reasons the court otherwise determines, and must, on proof of any of the facts mentioned below, either,—

- (1) refuse the discharge; or,
- (2) suspend the discharge for a period of not less than two years: provided that the period may be less than two years if the only fact proved of those hereinafter mentioned is that his assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities; or,
- (3) suspend the discharge until a dividend of not

² Dominion, 1919, ch. 36, sec. 58 (3).

³ Dominion, 1919, ch. 36, sec. 58 (4).

less than fifty cents in the dollar has been paid to the creditors; or,

- (4) require the bankrupt or assignor, as a condition of his discharge, to consent to judgment being entered against him by the trustee for any balance or part of any balance of the debts provable under the bankruptcy or assignment which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt or assignor in such manner and subject to such conditions as the court may direct; but execution must not be issued on the judgment without leave of the court, which leave may be given on proof that the bankrupt or assignor has, since his discharge, acquired property or income available towards payment of his debts.

The facts are,—

- (a) that the assets of the bankrupt or assignor are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;
- (b) that the bankrupt or assignor has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immedi-

ately preceding his bankruptcy or the making of the assignment;

- (c) that the bankrupt or assignor has continued to trade after knowing himself to be insolvent;
- (d) that the bankrupt or assignor has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;
- (e) that the bankrupt or assignor has brought on, or contributed to, his bankruptcy or assignment by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;
- (f) that the bankrupt or assignor has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him;
- (g) that the bankrupt or assignor has, within three months preceding the date of the receiving order or assignment, incurred unjustifiable expense by bringing a frivolous or vexatious action;
- (h) that the bankrupt or assignor has, within three months preceding the date of the receiving order or of the making of the assignment, when unable to pay his debts as they became due, given an undue preference to any of his creditors;
- (i) that the bankrupt or assignor has, within three months preceding the date of the receiving order or of the making of the assignment, incurred liabilities with a view of making his assets equal to fifty cents in the dollar on the amount of his unsecured liabilities;

- (j) that the bankrupt or assignor has, on any previous occasion, been adjudged bankrupt or has made an authorized assignment or made a composition, extension or arrangement with his creditors;
- (k) that the bankrupt or assignor has been guilty of any fraud or fraudulent breach of trust.

For the above purposes the assets of a bankrupt or authorized assignor are deemed of a value equal to fifty cents in the dollar on the amount of his unsecured liabilities when the court is satisfied that the property of the bankrupt or assignor has realized, or is likely to realize, or with due care in realization, might have realized an amount equal to fifty cents in the dollar on his unsecured liabilities, and a report by the trustee shall be *prima facie* evidence of the amount of such liabilities.⁴

Court May Grant Certificate.—Any statutory disqualification on account of bankruptcy ceases if and when the bankrupt obtains from the court his discharge with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part. The court may, if it thinks fit, grant such a certificate. The refusal to grant such a certificate is subject to appeal.

Hearing May be Read.—At the hearing of the application, the court may read the examination of the bankrupt or assignor, and may put such further questions to him and receive such evidence as it may think fit. The trustee, the debtor and any creditor may attend and be heard in person or by counsel. The powers of suspending and of attaching conditions to the discharge

⁴ Dominion, 1919, ch. 36, sec. 60 (1).

of a bankrupt or authorized assignor may be exercised concurrently.

Debts Not Released by Order of Discharge.—An order of discharge does not release the bankrupt or authorized assignor,—


- (a) from any debt on a recognizance nor from any debt with which the bankrupt or assignor may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence, and he shall not be discharged from such excepted debts unless an order in council proceeding from the Crown in the proper right is filed in court consenting to his being discharged therefrom; or,
- (b) from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party; or,
- (c) from any liability under a judgment against him in an action for seduction, or under an affiliation order, or for alimony or under a judgment against him as a co-respondent in a matrimonial case, except to such an extent and under such conditions as the court expressly orders in respect of such liability; or,
- (d) from any debt or liability for necessities of life, and the court may make such order for payment thereof as it deems just or expedient.

Partner or Co-trustee Not Released.—An order of discharge does not release any person who at the date of the receiving order or assignment was a partner or co-trustee with the bankrupt or authorized assignor or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

Debts Released.—An order of discharge releases the bankrupt or assignor from all other debts provable in bankruptcy or under an authorized assignment.

Annuling Bankruptcy Adjudication.—Where, in the opinion of the court, a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, the court may, on the application of any person interested, by order annul the adjudication. Where an adjudication is so annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done by the trustee, or other person acting under his authority, or by the court, are valid, but the property of the debtor who was adjudged bankrupt vests in such person as the court may appoint, or, in default of any such appointment, reverts to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the court may declare by order. Notice of the order annulling an adjudication is forthwith gazetted and published in a local paper. Any debt disputed by a debtor is considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt,

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with costs, and any debt due to a creditor who cannot or cannot be identified is considered as paid into court.

BANKING AND MONEY

Banks.—The average individual is in continual touch with banks and bank officials. Banks are the financial institutions of Canada, and as such they are an important factor in commercial life. In business transactions of all kinds a banker should be consulted if the financing of the undertaking is to be done with public money or private funds. Bank managers are more than willing to advise their clients on such matters, and by doing so render a service to the farmer and business man. One can never get too much information about money matters, or about the financial means or ability to pay of persons with whom contracts are contemplated. It is essential, however, for the farmer and for every business man to realize that time is an important factor in money matters. The average individual takes no chances nowadays. Neither does any bank. Bills and notes which become due should be immediately attended to, and communications from banks attended to promptly. Indifference as to these things causes endless trouble and expense, and very often the party becomes hopelessly involved if notes and bills get behind. It is true that few are familiar with the inner workings of a bank, but ordinary everyday transactions, such as opening accounts, depositing moneys, renewing bills and notes, and the endorsement of cheques should be within the knowledge of everyone.

Bank Accounts.—A bank account is the account kept by a bank of the moneys deposited, and withdrawn, by its customers. These accounts are usually of two kinds: (1) Savings, (2) general. In the savings account interest is given by the bank on amounts of \$1 and upwards, deposited for at least one month. In the general accounts interest is not usually given and to obtain interest on these accounts a special arrangement with the bank is necessary.

Opening Accounts.—To open an account with a bank it is preferable to attend personally at the bank, and make the application to the manager. It is also a good plan to take along with you an acquaintance who either banks with the same bank or is known to the officials personally. This saves a lot of time and useless questioning. It also has the benefit of becoming acquainted with the officials with whom deposits and withdrawals are made. The usual procedure in opening an account is for the bank official to give the new customer a card upon which the applicant writes his usual signature, or such other signature as he intends to use in signing cheques. In the case of doubtful signatures on cheques the bank usually looks this card up and compares the two signatures. This card is then filled up with the other details called for by the bank and the customer now makes his first deposit.

Depositing Moneys.—Deposits are made at the receiving teller's cage in the case of general accounts, and at the savings desk in the case of savings accounts. A deposit slip must be made out and deposited with the money. This slip shows the different cheques, orders, and cash deposited at the time. The bank book should

also be handed in at the same time. The official receiving the money enters the same in his books and then passes on the deposit slip to the ledger-keeper to be credited to the customer's account. In making deposits a certain system should be adopted. Deposit slips should be made out in detail, i.e., each cheque, postoffice order, draft, money order, and cash entered separately and a copy of the deposit slip kept for reference. A deposit should never be made without first checking over the slip.

Withdrawing Money.—The depositor will obtain, from the proper official of the bank, a cheque book. This must be used in all cases when money is drawn out. A cheque is really an order for money drawn by one who has funds upon which to draw. Legally, it is a bill of exchange drawn on a banker. When the money is drawn out of a savings account the bank book should be handed in at the same time.

Cheque Writing.—In writing cheques great care should be exercised so as to avoid the amount being raised by any person in whose hand it may come. No blank spaces must be left. First fill in the counterfoil, and then fill out the body of the cheque. Write in the cheque number, date, person to whom payable and the amount. In writing the name always use at least one Christian name, as "John J. Smith," as there are apt to be more than one "J. J. Smith." The amount should be both in figures and words, and the words should begin right close on the left hand and the balance of the line filled up with a wavy line, thus, "Seventy-five..... dollars." Then sign the cheque with the usual signature, and finally put on the cheque a 2c. stamp. Care

should be taken to follow out good business principles by (1) never drawing a cheque without actually having the money in the bank at the time; (2) never drawing a cheque larger than the balance in hand; (3) never using forms belonging to a bank where you have no account; (4) never leaving blank spaces in a cheque.

Cashing Cheques.—Cashing cheques is not so easy as at first one would imagine. A good many cheques are turned down on account of lack of identification, insufficient funds, irregular forms and for other reasons. Furthermore, banks do not usually cash cheques across the counter when payable to order, (e.g., "pay John Smith, or order"), unless the person presenting the cheque is known at the bank or is identified. A person intending to cash a cheque should always be prepared to supply identification unless he has an account at the bank. Practically in all cases the bank requires not only identification, but also signature on the back of the cheque, and the address of the party cashing the cheque. In fact, even when cashing one's own cheque payable otherwise than "to cash" or "to bearer," a signature will be required. The signing on the back of a cheque is called "endorsation," and consequently all persons cashing cheques should be careful to provide both identification and endorsation.

Endorsing Cheques.—It is obvious to any person that endorsation of a cheque is important as it makes the cheque cashable. It is also obvious that unless this is properly done, the bank will not cash the cheque. In endorsing a cheque the signature should be made across the back about one inch from the top. The ordinary signature of the endorser should be used, no matter

how the name is spelled in the body of the cheque. Where the cheque is merely to be deposited after being endorsed, the endorser should place the words "for deposit only" above the signature, and in this way no person can cash it over the counter. In the same way, if the cheque is being made payable by endorsement to some particular individual, that individual's name should appear thus, "Pay to ———, or order."

BILLS AND NOTES

Generally.—The law respecting bills, notes and cheques has been codified into one enactment known as the Bills of Exchange Act. It applies throughout Canada.

Parties.—The maker is the person who signs and agrees to pay. The payee is the person who is named in note to receive money. The holder is the person who holds the bill or note in his own right and is entitled to receive payment. The endorser is the person who transfers the bill or note by endorsing it, that is, by writing his name on back. The endorsee is the person who receives note or bill from endorser.

Form and Conditions of Note.—No particular form is necessary. It may be in any language. It must be in writing. It is safer to use the forms to be obtained in any bank. Promises in the form of promissory notes must be absolute. There must be no conditions, such as promising to pay when something occurs. It must promise to pay money only and the amount must be fixed and definite. The money payable must be payable at a fixed and certain time after date, e.g., "on de-

mand," "30 days after date," etc. If no time is fixed, a note is payable on demand. A note should be dated. But it is not invalid if not dated. The date may be proved by evidence. The payee should be named unless the note is payable to bearer. If the payee mentioned is a fictitious (imaginary) person, the note is payable to bearer. The maker must sign. If his agent signs with his authority he is bound. One of several partners may sign in firm name.

Joint and Several Notes.—Notes signed by two or more makers beginning "We jointly promise, etc," are joint notes. On joint notes all must be sued. Judgment secured against one is a judgment against all. Any maker can use another's defence when sued. Notes signed by two or more persons with words "We jointly and severally promise, etc." or even without such words are joint and several notes. Each maker is liable for whole sum and may be sued alone. A note reading "I promise to pay" and signed by two or more persons is deemed to be their joint and several note.

Accommodation Notes.—These are notes given by a maker payee to whom he is not indebted and only to enable him to raise money on it. Makers of such notes cannot be sued by payee and are only liable to holders in due course. If person signing the note for accommodation has to pay the note he may recover the amount from the person accommodated.

Consideration (Value for Notes).—Words "value received" are not necessary to make a note valid, but all notes, except accommodation notes, must have value given for them at some time while they are current such as will support a contract.

Endorsement.—Endorsement means writing name on back of note. Notes payable to bearer are transferred by simple delivery by holder. Notes payable to order are transferred by endorsement as follows:—

(1) In Blank—Payee or holder wishing to transfer simply writes his name on back without other words. Note is then payable to bearer. Any later holder or endorsee may endorse it specially by writing after his signature the words “Pay to J. H.” or “Pay to J. H. only”;

(2) By Special Endorsement.—In this case the payee endorsing writes after his signature “Pay to order of J. H.”, note is then still payable only to order of J. H., and only J. H. can validly transfer it by endorsing it. No note can be transferred as to part only; and

(3) By Restrictive Endorsement.—In this case the person endorsing writes after his signature words prohibiting further transfer as “Pay to J. H. only.” Such a note cannot be transferred without authority. A note discharged by payment cannot be endorsed. Where there are two or more not partners, all must endorse. Where name of payee is misspelt he should endorse his proper signature. When payee is insolvent, his assignee, and when dead, his executor or administrator, should endorse.

Holder in Due Course.—A holder in due course is one who takes a note complete and regular on the face of it, before it is due, for value, in good faith, without notice of any defects or that note had been dishonoured. A holder in due course has an absolute and perfect title to the note, free from all defects, and so has everyone getting their title through him. If he complies with

the above conditions no defence against the original parties can be set up against him if he sues on the note.

A Forged Note.—A forged note confers no title on anyone and is worthless.

Overdue Notes.—Persons taking overdue notes take them with all defects existing when they were due.

Dishonoured Notes.—Persons taking dishonoured notes take them with all defects at time of dishonour, if they had notice of such dishonour.

Demand and Sight Bills.—These must be presented to drawee for acceptance.

Bills Payable After Date.—These need not be presented for acceptance unless they are made payable elsewhere than at the residence or place of business of the drawee, but it is advisable to present them so as to have drawee's signature on them.

Bills Drawn Payable Elsewhere.—Where bill states that it is to be presented for acceptance or where it is drawn payable elsewhere than at residence of drawee it must be presented for acceptance. In the last case when presentment for acceptance cannot be effected before presentment for payment it will be excused.

Presentment for Acceptance.—The presentment must be to drawee in person or someone duly authorized by him. If dead, presentment is made to the executor, etc., at a reasonable hour on a business day before bill is overdue. Where there are two or more drawees, not partners, all must accept unless one has authority from the others.

Acceptance.—An acceptance is made merely by drawee writing his name on the face with or without

words, such as "accepted," etc. Acceptance may vary terms of bill or be on a contingency or condition if holder consents. If he does not consent he may treat such an acceptance as a dishonour. When a bill is dishonoured by non-acceptance the holder has immediate rights against drawer and endorses if he notifies them in manner indicated under heading "Notice of Dishonour" or protests the bill for non-acceptance. A bill dishonoured by non-acceptance may be accepted by another "For Dishonour." Such acceptor for honour will only have to make payment if drawer does not. He becomes practically the backer of a note, the drawer being the maker.

Presentment for Payment.—Notes not endorsed and accommodation bills, or bills where no place of payment is given do not require to be presented for payment. Nor where presentment cannot be effected as required by the Act. Other notes and bills must be presented for payment in order to hold endorsers liable.

How Presented for Payment.—The notes and bills should be exhibited to the payer. The presentment must be made when the bill or note falls due. Demand bills and cheques should be presented without delay by the holder or someone authorized by him to the payer or someone authorized by him. Where the payers are partners one will do. If payer is dead, presentment should be made to executor or administrator.

Place of Presentment for Payment.—The presentment should be made at place of payment mentioned in bill. Where no place is mentioned then at the address of payer of bill. Where no address, then at payer's place of business or residence, if none known then at

last known place of business or residence or anywhere payer can be found. If these measures fail to locate him presentment will possibly be excused. Diligence should be used in effecting presentment, but reasonable delay will probably be excused.

Days of Grace.—No days of grace are added to bills and notes payable on demand. Three days of grace are added to all other bills and notes. These are accordingly not due and payable until the third day after the time of payment fixed by the bill.

Legal Holidays.—When last day of grace falls on a legal holiday or Sunday, the bill is not due until next day unless it is also a legal holiday or Sunday, when bill will be due the day following. Legal holidays are Sundays, New Year's Day, Good Friday, Easter Monday, Victoria Day (May 24th), Dominion Day (July 1st), Labour Day, Christmas, King's Birthday, Day set apart for Thanksgiving.

Interest.—Unless stated in note to be payable, interest is not payable until after maturity. It is then payable at the legal rate of 5 per cent. If interest is stated in bill to be payable it runs from date of bill. Persons who are not money-lenders or banks can charge any rate of interest; money-lenders and banks are limited.

Dishonour.—After note is presented for payment and payment is refused or where presentment cannot be effected or is unnecessary, and payment cannot be obtained, the note is dishonoured by non-payment. The holder has then immediate rights of action against all persons liable, provided notice of dishonour is given as hereinafter mentioned.

Notice of Dishonour.—This must be given to the drawer of the bill and the endorser of the bill or note or their duly authorized agents for that purpose, by the holder or endorser liable, not later than the business day following dishonour.

Manner and Form of Notice of Dishonour.—This should be in writing or by personal communication. No special form is necessary so long as note or bill is identified and it is intimated the note has been dishonoured by non-payment. It need not be signed. The return of a dishonoured bill would be sufficient notice. Where any drawer or endorser receives notice he should notify all prior endorsers he wishes to hold liable. The notice should be mailed in the postoffice not later than the business day next following dishonour, and addressed to drawer or endorser at their customary place of business or residence or at the place where the bill is dated or to address drawer or endorser has by his signature indicated. Miscarriage by postoffice will not invalidate notice. The notice should be registered. Delay will only be excused when not caused through carelessness of sender.

Notice of Dishonour Unnecessary.—The notice is unnecessary to hold liable acceptors of bills and makers of notes, nor is it necessary where notice cannot possibly be given as required by the Act or where endorser or drawer dispenses with it.

Protest.—Inland bills and notes are those which are made or drawn in Canada payable in Canada or to someone resident in Canada. Foreign bills and notes are all other bills and notes. Inland bills and notes need not be protested for non-acceptance and non-payment.

Foreign bills and notes must be so protested for non-payment and non-acceptance, but it is not necessary to protest a foreign note to hold the maker liable or a foreign bill to hold the acceptor liable. Protest of foreign bills and notes is only necessary to hold drawers of bills and endorsers of bills and notes liable. It is, however, advantageous to note and protest an inland bill or note because the protesting is evidence that the bill has been duly presented for payment or acceptance and if dishonoured, that notice of dishonour has been given to the proper parties. Protesting bills and notes must be performed by a notary under his seal.

Liability of Parties.—The drawee is not liable until he accepts the bill. When he accepts it he is liable to any holder in due course. The drawer is liable for payment of the bill to any holder in due course if drawee dishonours it by non-payment. The maker is liable on a note to any holder in due course, but an accommodation maker is not liable to the person (payee) accommodated.

Liability of Endorsers.—The endorsers are liable to pay full amount of note or bill to any holder in due course, if prior parties, e.g., makers, acceptors and drawees fail to make payment. Any endorser who has to pay the note or bill can in turn recover what he has been compelled to pay, and his costs and expenses from the maker of the note or the drawer and acceptor of the bill and all endorsers in date to him. In like manner “backers” of notes and persons signing accommodation notes may recover from the persons backed or accommodated in case they are compelled to make payment of the note. A person may endorse a bill or note,

adding the words "without recourse", in which case he will not be liable upon it to anyone.

Transfer of Notes Payable to Bearer.—Persons who transfer bills or notes payable to bearer by simple delivery incur no personal liability.

Discharge.—A bill or note is discharged by:—

- (a) Payment at maturity to proper person, holder in due course, without notice of any defect in his title;
- (b) In the case of accommodation notes when person accommodated pays them;
- (c) When acceptor of bill or maker of note becomes the holder in his own right after maturity;
- (d) A renunciation in writing by holder of all claims against payer or where holder gives up bill;
- (e) Where holder intentionally cancels the bill or note;
- (f) Where bill or note is altered without the consent of all parties as by alteration of date, sum payable, time of payment, place of payment, addition of place of payment where none mentioned. However, where the alteration is not apparent and bill or note is in hands of a holder in due course the bill or note is not discharged.

Loss.—When bill or note is lost before it is overdue, the holder may apply for another of same tenor upon giving security to person liable on bill or note to indemnify him in case lost instrument is found.

BONDS

Bond.—A bond is invariably under seal. It is a

document whereby the maker, or obligator, as he is called, obliges himself, his heirs, executors and administrators to pay as a penalty a certain specified sum of money to another person called the obligee. Usually a condition is added to the effect that if the obligor performs some particular act or duty the bond will become void, otherwise it is to remain in full force and effect. The penalty mentioned in the bond is usually double the debt due. Where the bond is given to secure the performance of some act the penalty is usually a reasonable sum to cover the loss suffered. Where the condition upon which the bond was given is left unfulfilled, the actual amount due or the damage suffered can be recovered, although a larger amount may be mentioned in the bond. Sometimes the parties to the bond agree that if the condition of the bond is not fulfilled the amount fixed is to be considered not a penalty but damages, fixed by the parties. The practice of courts, however, is only to give the amount of loss actually suffered in such cases. A person bound under a bond is sometimes excused if the performance becomes impossible by events over which he had not control.

Release.—Where the bond is given by one person to secure the performance by another of some act the person bound is usually released by the person for whose benefit the bond is given extending the time to the person indebted, or to the person who is to perform the act.

Bond Companies.—Bonds are usually given now by bonding companies instead of private persons.

BRANDS**I. Alberta**

Act.—The brand law of this province will be found in *The Brand Act, 1913*.¹

Definitions.—Legal terms do not always have the same meaning. In the brand law of this Province certain expressions are used with a special meaning. Thus the expression (1) "Department" means the Department of Agriculture for Alberta; (2) "Minister" means the Minister of Agriculture for Alberta; (3) "Horse" means any horse, mare, gelding, colt or filly, ass or mule; (4) "Cattle" means any bull, cow, ox, heifer, steer or calf; (5) "Stock" means any horse or head of cattle; (6) "Owner" means the owner, jointly or in severalty of any brand or vent recorded under the brand law, and the authorized agent of such owner to transferee; (7) "Brand" means any letter, sign or numeral or combination of the same recorded as allotted; (8) "Vent" means (a) any vent brand allotted as having been recorded prior to March 1st, 1898; (b) a second marking in a horizontal or lazy position immediately below the brand mark upon any stock of a letter or numeral forming part or the whole of such brand; any such brand denoting the fact of the proprietary rights in any stock bearing the same having passed from the owner to some other person; (9) "Recorded" means duly entered in the record to be kept in pursuance of the brand law; (10) "Character" means any sign, letter or numeral.²

Form of Brand.—Contained brands of any form or combination of characters may be allotted for any

¹ Alta., 1913 (2), ch. 24.

² Alta., 1913 (2), ch. 24, sec. 2.

part of the body of any stock, subject to the approval of the Minister. Every brand for cattle allotted for the hip or thigh, for the rib and for the shoulder or top of arm must consist of three characters, and the shape and pattern of such characters and the arrangement thereof is fixed and determined by the Minister. On the payment of an additional fee of fifty cents any person may have allotted to him any other brand, which consists of less than three characters and which does not conflict with any brand already allotted.³

Property in Brands.—All brands allotted, save as hereafter provided, remain the property of the registered owner providing such owner pays to the Recorder of Brands the fee for the continuation of the brand required by law. The continuation fee is due and payable upon brands as follows: On brands allotted prior to January 1st, 1907, upon December 31st, 1915, and upon the 31st day of December of every successive four-year period. On brands allotted during the years 1907, 1908 and 1909 upon December 31st, 1916, and upon the 31st day of December of every successive four-year period; on brands allotted during the years 1910, 1911 and 1912, upon December 31st, 1917, and upon December 31st of every successive four-year period; on brands allotted during the years 1913 and 1914, upon December 31st, 1918, and upon the 31st day of December of every successive four-year period; and on brands allotted subsequent to the 31st day of December in the year 1914, upon the 31st day of December in every successive four-year period after such allotment. In any case where the owner of a

brand does not pay the required fee at the required time, the Recorder of Brands notifies him of such failure, and that he will cease to be the owner of the brand unless the fee due by him is paid before the 31st day of the following month of March. If the owner fails to pay the required fee by the 31st day of March he ceases to be the owner of the brand. However, where any owner forfeits his right to ownership of a brand, the brand is not usually allotted to any other person for a period of at least four years.⁴

Owner's Exclusive Right to Use of Brand.—Until the cancellation of the same the owner of any brand allotted has the exclusive right to the use thereof, and during such period the mark of any brand upon stock not bearing the mark of a subsequent vent by the owner of such brand is *prima facie* evidence in any court or tribunal in Alberta of the ownership, by the owner of such brand, of the animal bearing the same, but no such presumption of ownership arises or is given effect to in any case where the brand upon any such animal has not been recorded or has been cancelled prior to such evidence being tendered.⁵

Recorder of Brands.—The Lieutenant-Governor-in-Council appoints a Recorder of Brands, who under the direction of the Minister keeps in a book or books for that purpose a record of all brands allotted, their duration, renewal, re-allotment, cancellation and transfer, together with the date thereof and the names of the owner or transferee thereof.⁶

⁴ Alta., 1913 (2), ch. 24, sec. 4.

⁵ Alta., 1913 (2), ch. 24, sec. 5.

⁶ Alta., 1913 (2), ch. 24, sec. 6.

Fees, Searches, and Extracts.—Any person can search or have the record searched and obtain certified extracts therefrom during the regular business hours of the Recorder's department, upon payment of the fees prescribed in the tariff of fees.⁷

"TARIFF OF FEES.

"On application of allotment of a brand.....	\$3 00
"Fee for continuation of brand for a period of four years.....	2 00
"On application for change in the record of a brand.....	2 00
"On every transfer of a recorded brand.....	3 00
"For every search of the brand record.....	1 00
"For every certified extract from the brand record.....	2 00

Application for Allotment of Brand.—Any person requiring the allotment to him of a brand, or the re-allotment or the renewal thereof, must make application therefor to the recorder. The application must be accompanied by the proper fee prescribed in the tariff, and upon being satisfied that such application is in conformity with the law the recorder grants such application and enters such allotment, renewal or re-allotment in the record forthwith. The Minister may, however, if he deems it advisable, refuse any such application. Furthermore, no brand is allotted to an Indian living upon a reserve.⁸

Certificate of Record of Brand.—Upon the recording of the allotment, renewal or re-allotment of any brand as aforesaid, the person in whose name the same is last recorded becomes the owner thereof and of all rights thereto and therein, and the recorder delivers or transmits to such person a certificate of the allotment, renewal or re-allotment thereof and of the recorder entry of the same. Certificates purporting to be signed by the recorder under the provisions are accepted in courts and tribunals in Alberta as *prima facie* evidence of the

⁷ Alta., 1913 (2), ch. 24, sec. 7.

⁸ Alta., 1913 (2), ch. 24, sec. 8.

ownership of such brand without any further proof of signature.⁹

Publication of Recorded Brands.—A complete list of the recorded brands is published by the Minister of Agriculture. Brand books can be obtained from the Agricultural Department on payment of a reasonable charge.¹⁰

Change in Brand.—The recorder can, upon the application of any owner, accompanied by the fee prescribed in the tariff, make changes in any brand or form or position not inconsistent with the provisions of the brand law.¹

Notice of Expiration Sent by Recorder.—It is the duty of the recorder in each year to notify the owners of all brands which expire and become cancelled at the expiration of such year. Such notice is usually given by registered letter, postage prepaid and addressed to such owners respectively at their respective postoffices as entered in the record.²

Minister May Cancel Conflicting Brands.—If any two or more owners of stock have the same or conflicting brands recorded the Minister may, if he deems it advisable, authorize the cancellation of the brand last recorded, or (with the sanction of the owner) of any brand previously recorded, and may allot another in lieu thereof, without charge.³

Transfer of Brands.—Any person wishing to transfer the ownership in any recorded brand must make and sign in the presence of a commissioner for oaths (who

⁹ Alta., 1913 (2), ch. 24, sec. 9.

¹⁰ Alta., 1913 (2), ch. 24, sec. 10.

¹ Alta., 1913 (2), ch. 24, sec. 11.

² Alta., 1913 (2), ch. 24, sec. 12.

³ Alta., 1913 (2), ch. 24, sec. 13.

must affix his signature thereto, as a witness) a memorandum, and must transmit the same to the recorder, with the proper fee chargeable upon such transfer, as prescribed in the tariff. The recorder, upon the receipt of such memorandum and fees, makes an entry in the record, opposite to the entry of the original allotment. This entry sets forth the fact of such transfer to the transferee, together with his postoffice address and the date of such entry. Such transferee thereafter is deemed to be the owner of and to have the exclusive right to the use of such brand and to the same benefits and rights in respect thereof as before such transfer was held by the transferror. In case of death or absence of the owner a declaration made by the transferee may, subject to the approval of the Minister, be accepted in lieu of the memorandum of transfer. Such transfer must not be recorded until thirty days after notice thereof has been published in one issue of the official gazette and in two successive weekly issues of a newspaper to be named by the Minister.⁴

“TRANSFER OF BRAND.

To the Recorder of Brands, Medicine Hat, Alberta:

DESCRIPTION OF BRAND	I (or We)....., being the recorded owner of.....of the brand mentioned in the margin hereof, having trans- ferred the same to.....
(Brand)	..... of Alberta, do hereby request, that you will make the necessary transfer to.....
POSITION	..... of such brand in your record and I (or we) enclose herewith the sum of two dollars (\$2.00) as the authorized fee therefor under The Brand Act.
CATTLE OR HORSES.	
Dated at.....this.....day of, 192.....	

Owner.

Witness:

Post Office Address.

A Commissioner for Oaths for Alberta.”

⁴ Alta., 1913 (2), ch. 24, sec. 14.

"APPLICATION FOR THE BRAND TO BE TRANSFERRED.

I of
 Alberta, do solemnly declare:

DESCRIPTION OF BRAND
 1. That I am the purchaser of the brand mentioned in the margin hereof and recorded in the name of.....

(Brand)

POSITION

CATTLE OR HORSES.

And I make this solemn declaration, conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath and by virtue of The Canada Evidence Act.

Declared before me at
 in the Province of Alberta, this..... }
 day of....., A D 192..... } Signature of Transferee.

A Commissioner for Oaths for Alberta."

Vent on Transferred Stock.—Upon every transfer for value of any stock marked with the recorded brand of the transferror the transferror must vent the stock unless at the time of such transfer the brand is transferred to the transferee of the stock. However, with the transferee's consent it will be a sufficient compliance with these requirements if the transferror gives to the transferee, when so taking possession of such stock, a statement. Such statement will, for the space of thirty days next after the date thereof, be accepted in any court or tribunal in Alberta as evidence of the transfer of such stock according to the purport thereof.⁵

STATEMENT OF SALE OF BRANDED STOCK.

To all whom the same may in anywise concern:

Take notice that I have this day sold to (name of purchaser) the following described stock:

.....
 branded with my record brand No.,.....

Description:

Dated at.....this

day of....., 192.....

(Signature)

(P.O. Address.)

Brand Commissioners.—The Lieutenant-Governor-in-Council can appoint a board of brand commissioners, consisting of three persons, each of whom is the owner of horses or cattle and of at least one allotted brand. They must also be residents of Alberta. The board meets at such times and places as the recorder of brands arranges, and they advise him upon all matters which he may bring to their notice in connection with the administration of the brand law. Each member of the board holds office during the pleasure of the Lieutenant-Governor-in-Council. His office is honorary. Each commissioner, however, is allowed travelling and other expenses while attending meetings of the board to the extent of five dollars per day and his actual transportation expenses. The recorder of brands is secretary to the board and keeps a record of the proceedings of every meeting. These records are certified to by the members of the board present at each such meeting as correct, and form part of the records of the department.⁶

Offences and Penalties.—Any person who—

- (a) brands, or directs, aids or assists to brand any stock, vent or mark which has not been recorded under the provisions of this Act or which has been cancelled thereunder;
- (b) brands, or causes, directs or permits to be branded with his own or with any brand, vent or mark any stock of which he is not the owner without the authority of the owner;
- (c) blotches, defaces or otherwise renders illegible or alters any brand, vent or mark upon stock,

⁶ Alta., 1913 (2), ch. 24, sec. 17.

or directs, causes or permits any such brand, vent or mark to be blotched, defaced or otherwise rendered illegible or altered;

is guilty of an offence and, in addition to any other penalty to which he may be subject by law, he is, on summary conviction before a justice of the peace, liable to a penalty not exceeding \$200.00 and costs.⁷

II. Saskatchewan.

Definitions.—The expression: (1) "Department" means the Department of Agriculture for Saskatchewan; (2) "Minister" means the Minister of Agriculture for Saskatchewan; (3) "Horse" means any horse, mare, gelding, colt, filly, ass or mule; (4) "Cattle" means any bull, cow, ox, heifer, steer or calf; (5) "Stock" means any horse or head of cattle; (6) "Owner" means the owner jointly or in severalty of any brand or vent allotted under the brand law, and includes the duly recorded transferee thereof and the authorized agent of such owner or transferee; (7) "Brand" means any letter, sign or numeral or combination of the same recorded as allotted; (8) "Vent" means (a) any vent brand allotted as having been recorded prior to March 1, 1898; (b) a second marking in a horizontal or lazy position immediately below the brand mark upon any stock of a character forming part of the whole of such brand; any such vent denoting the fact of the proprietary rights in any stock bearing the same having passed from the owner to some other person; (9) "Recorded" means duly entered in

⁷ Alta., 1913 (2), ch. 24, sec. 18.

the record to be kept in pursuance of this Act; (10) "Character" means any sign, letter or numeral.

Brand Books.—The council of every rural municipality must at the expense of the municipality provide each of its poundkeepers and its secretary with a copy of the latest published list of recorded brands.⁸

Form of Brands.—Contained brands of any form or combination of characters may be allotted for any part of the body of any stock, subject to the approval of the Minister. Every brand for cattle allotted for the hip or thigh, for the rib and for the shoulder or top of arm must consist of three characters, and the shape and pattern of such characters and the arrangement thereof shall be fixed and determined by the Minister. However, on the payment of an additional fee of fifty cents, any person may have allotted to him any other brand which does not conflict with any brand already allotted.⁹

Cancellation of Brands.—All brands and vents allotted under the brand law, and, save as hereinafter provided, all rights of the owner thereto, therein or thereunder, are cancelled and determined as and upon the several dates respectively hereinafter mentioned, that is to say:

Those allotted prior to January 1, 1907, upon December 31, 1913;

Those allotted during the years 1907 or 1908, upon December 31, 1914;

Those allotted during the years 1909 or 1910, upon December 31, 1915;

⁸ Sask., 1912-13, ch. 38, sec. 27.

⁹ Sask., Annual Statutes, 1912-13, ch. 38, sec. 3.

Those allotted during 1911 or 1912, upon December 31, 1916;

Those allotted subsequent to December 31, 1912, upon the thirty-first day of December in the fourth year next following the year during which such brand was allotted.

All brands issued between March 31, 1916, and January 1, 1917, are cancelled and determined on December 31, 1922, and all brands issued during 1917 are to be cancelled and determined on December 31, 1923.

Renewel of Brands.—Upon application during the year in which any brand would become cancelled hereunder the allotment and exclusive right to the use thereof may from time to time be renewed for a further period of four years from the end of such year.

Reallotment of Brands.—The owner of any brand so cancelled may upon application in writing not later than three months next after the date of such cancellation procure the reallotment to him of such brand. Save as herein provided no brand can after any cancellation thereof be again allotted to any person until after the expiration of five years after the date of its cancellation.¹⁰

Owner's Exclusive Use of Brand.—Until the cancellation of the same the owner of any brand allotted under the brand law has the exclusive right to the use thereof and during such period the mark of any brand upon stock not bearing the mark of a subsequent vent by the owner of such brand shall be *prima facie* evidence in any court or tribunal in Saskatchewan of the ownership by the owner of such brand of the animal

¹⁰ Sask., Annual Statutes, 1912-13, ch. 38, sec. 3.

bearing the same, but no such presumption of ownership arises or is given effect to in any case where the brand upon any such animal has not been recorded or has been cancelled prior to such evidence being tendered.¹

Record of Brands.—The Lieutenant-Governor-in-Council appoints a recorder of brands, who is subject to the direction of the Minister of Agriculture.² A book or books is kept for recording all brands allotted under the brand law and of their duration, renewal, reallocation, cancellation and transfer, together with the dates and the names of the owner or transferee.³

Searches and Extracts.—Any person is entitled to search or have the record searched and to obtain certified extracts during the regular business hours of the department upon payment of the fee prescribed in the tariff of fees.⁴

TARIFF OF FEES

On application for allotment or renewal or reallocation of a brand.....	\$2.00
On application for change in the record of a brand.....	1.00
On every transfer of a recorded brand.....	1.00
For every search of the brand record.....	.50
For every certified extract from the brand record.....	.50

Application for Allotment of Brand.—Any person requiring the allotment to him of a brand or the reallocation or the renewal thereof must make application to the recorder. The application must be accompanied by the proper fee as prescribed in the tariff. Upon being satisfied that such application is in conformity with the provisions of the brand law, the recorder grants the application and enters the allotment, renewal or

¹ Sask., Annual Statutes, 1912-13, ch. 38, sec. 5.

² Sask., Annual Statutes, 1912-13, ch. 38, sec. 6.

³ Sask., Annual Statutes, 1912-13, ch. 38, sec. 6.

⁴ Sask., Annual Statutes, 1912-13, ch. 38, sec. 7.

reallotment in the record forthwith. The Minister may, however, if he deems it advisable, refuse any such application. No brand is allotted to an Indian living upon a reserve.⁵

Certificate of Record of Brand.—Upon the recording of the allotment, renewal⁶ or reallotment of any brand the person in whose name the same is last recorded becomes the owner thereof and of all rights thereto and therein. The recorder delivers or transmits to such person a certificate of the allotment, renewal or reallotment and of the recorded entry. The production of any certificate purporting to be a certificate signed by the recorder in any court or tribunal in Saskatchewan is *prima facie* evidence of the ownership of such brand without any further proof of signature.⁶

Publication of Recorded Brands.—The Minister of Agriculture publishes from time to time a complete list of the brands recorded under the brand law and may make a reasonable charge for the volume containing the same.⁷

Change in Brand.—The recorder can, upon the application of any owner, accompanied by the prescribed fee, make changes in any brand or form or position not inconsistent with the brand law.⁸

Notice of Expiration Sent by Recorder.—It is the duty of the recorder in each year to notify the owners of all brands, which would expire and become cancelled at the expiration of such year, of the date upon

⁵ Sask., Annual Statutes, 1912-13, ch. 38, sec. 8.

⁶ Sask., Annual Statutes, 1912-13, ch. 38, sec. 9.

⁷ Sask., Annual Statutes, 1912-13, ch. 38, sec. 10.

⁸ Sask., 1909, ch. 22, sec. 11, 1912-13, ch. 38, sec. 11. 7

which the same will become cancelled, unless previously renewed. Such notice is given by registered letter, postage prepaid, and addressed to owners at their post-offices entered in the record.⁹

Minister May Cancel Conflicting Brands.—If any two or more owners of stock have the same or conflicting brands recorded, the Minister of Agriculture may, if he deems it advisable, authorize the cancellation of the brand last recorded or (with the sanction of the owner) of any brand previously recorded. He can allot another in lieu thereof without charge.¹⁰

Recording Transfer of Brands.—Any person wishing to transfer the ownership in any recorded brand must make and sign in the presence of a commissioner for oaths as witness, a memorandum to that effect. He must transmit the same to the recorder with the proper fee chargeable upon such transfer. The recorder, upon the receipt of such memorandum and fees, makes an entry in the record opposite to the entry of the original allotment setting forth the fact of transfer to the transferee, together with his postoffice address and the date of such entry. The transferee thereafter is deemed to be the owner of and to have the exclusive right to the use of such brand and to the same benefits and rights in respect thereof as before such transfer were held by the transferor.¹

Brand Owner Dead or Absent.—In case of death or absence of the owner a declaration made by the transferee can, subject to the approval of the Minister, be

⁹ Sask., Annual Statutes, 1912-13, ch. 38, sec. 12

¹⁰ Sask., Annual Statutes, 1912-13, ch. 38, sec. 13.

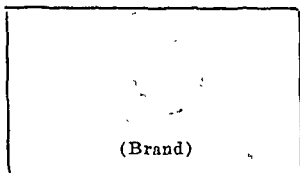
¹ Sask., Annual Statutes, 1912-13, ch. 38, sec. 14 (1).

accepted in lieu of the memorandum of transfer. The transfer is not recorded until thirty days after notice has been published in one issue of the official gazette and in two successive weekly issues of a newspaper to be named by the Minister.²

MEMORANDUM OF TRANSFER OF BRAND.

To the Recorder of Brands, Regina, Saskatchewan:

DESCRIPTION OF BRAND.



Position
Cattle or Horses.

Dated at

this

day of

, 19

Owner.

Witness.

P. O. Address

A Commissioner for Oaths for Saskatchewan.

IN THE MATTER OF AN APPLICATION FOR THE TRANSFER OF A BRAND.

I, _____, residing on _____
S. _____ T. _____ R. _____ west of the _____ Meridian.
Saskatchewan, do solemnly declare:

1. That I am the purchaser of the brand No. _____
for 19 _____ recorded in the name of _____
for the (position on animal) of (horses or cattle).

2 That the said brand was actually sold to me by the said _____
the _____ day of _____ 19 _____, and that
I am entitled to a transfer for the same.

3. That _____ written transfer of the said brand
was given me by the said _____

4. That I am to the best of my knowledge and belief the rightful
owner of all (horses or cattle) running at large in this district branded
with the said brand.

And I make this solemn declaration, conscientiously believing it to
be true, and knowing that it is of the same force and effect as if
made under oath by virtue of The Canada Evidence Act.

Declared before me at

in the Province of Saskatchewan this _____
_____ day of _____ 19 _____

Signature of Transferee.

A Commissioner for Oaths.

P. O. Address.

² Sask., Annual Statutes, 1912-13, ch. 38 sec. 14 (2).

³ Sask., Annual Statutes, 1912-13, ch 38, sec. 15.

ber of the board holds office during the pleasure of the Lieutenant-Governor-in-Council. The office is honorary, but each commissioner is allowed for his travelling and other expenses while attending meetings of the board the sum of five dollars per day and his actual transportation expenses. The recorder of brands is the secretary of the board and keeps a record of the proceedings of every meeting. These records are certified to, by the members of the board present at each such meeting, as correct and form part of the records of the department.⁴

Offences and Penalties.—Any person who—

- (a) brands or directs, aids or assists to brand any stock with a brand, vent or mark which has not been recorded under the provisions of this Act or which has been cancelled thereunder;
- (b) brands or causes, directs or permits to be branded with his own or with any brand, vent or mark any stock of which he is not the owner without the authority of the owner;
- (c) blotches, defaces or otherwise renders illegible or alters any brand, vent or mark upon stock or directs, causes or permits any such brand, vent or mark to be blotched, defaced or otherwise rendered illegible or altered;

is guilty of an offence and, in addition to any other penalty to which he may be subject by law, is liable, on summary conviction thereof before a justice of the peace, to a penalty not exceeding \$200 and costs.⁵

⁴ Sask., Annual Statutes, 1912-13, ch. 38, sec. 16 (4).

⁵ Sask., Annual Statutes, 1912-13, ch. 38, sec. 17.

III. Province of Manitoba.

Definitions.—The expression—

(a) “Minister” means the Minister of Agriculture and Immigration for Manitoba; (b) “horse” means any horse, mare, gelding, colt, filly, ass or mule; (c) “cattle” means any bull, cow, ox, heifer, steer or calf; (d) “owner” means the owner jointly or in severalty of any brand or vent allotted under the brand law, and includes the duly recorded assignee thereof and the authorized agent of such owner or assignee; (e) “brand” means any letter, sign, numeral, mark, or combination of such marked or to be marked upon horses or cattle, and includes both the location upon the animal of such marking and the recording as allotted of such marking and location; (f) “vent” means a mark which may be added to any registered brand upon any animal to show that the ownership of the animal so marked has passed from the owner of the brand to some other person; (g) “recorded” means duly entered in the record to be kept as provided in the brand law.⁶

Register of Brands.—There is kept in the Department of Agriculture and Immigration a register in which is recorded a full description of the brands or markings of animals, the shape and location thereof, and such other matters and things as the Minister deems necessary, together with the date of such recording.⁷

⁶ Man., 1919, ch. 4, sec. 2.

⁷ Man., 1919, ch. 4, sec. 3.

Application for Brand.—Any person desiring the allotment to him of a brand or the reallocation or the renewal thereof, must make application therefor to the Minister. The application must be accompanied by a fee of two dollars.⁸

Registration.—The Minister, upon being satisfied that the application is in conformity with the provisions of the brand law, and that no other person has been allotted the same marking or brand, can allot, renew or reallocate to such applicant a brand, record it in the register and deliver or transmit to such applicant a certificate of allotment, renewal or reallocation, therefor. The applicant then has the sole and exclusive right in Manitoba to adopt it as his own and use such brand.⁹

Selection of Brand.—The selection of the brand to be allotted to any applicant is in the discretion of the Minister.¹⁰

Evidence of Ownership of Brand.—The production of a certificate of record of a brand duly allotted according to the provisions of the brand law is *prima facie* evidence of the ownership of the brand.¹

Minister May Publish List of Brands.—A complete or supplementary list of the brands recorded is published and a reasonable charge for the volume containing such list is made by the Department. When such list is prepared the Minister may require the council of any municipality, at the expense of the municipi-

⁸ Man., 1919, ch. 4, sec. 4.

⁹ Man., 1919, ch. 4, sec. 5.

¹⁰ Man., 1919, ch. 4, sec. 6.

¹ Man., 1919, ch. 4, sec. 7.

pality, to furnish each of its poundkeepers and its clerk with a copy of the latest published list.²

Evidence of Ownership.—The owner of an uncanceled brand has exclusive right to the use thereof. Such brand upon horses and cattle, except where otherwise provided in the brand law, is *prima facie* evidence in any court in Manitoba that such animals are the property of the owner of such brand. No such presumption of ownership arises or is given effect to if the brand upon the animal in question bears the mark of a vent made by the owner of the brand subsequent to the branding of the animal, or if a subsisting certificate of allotment is not tendered as evidence.³

Assignment of Brand.—The ownership of and the right to use any brand recorded under the provisions of this Act may be assigned by an assignment executed by the owner named in the certificate in the presence of a witness who must verify the execution by his affidavit sworn before a commissioner for taking affidavits, a notary public or a justice of the peace. The assignment must be filed with the Minister, together with the original certificate of record, or an affidavit by the owner that such certificate of record has been lost, whereupon the Minister issues a new certificate to the assignee as "assignee" under a new number, but having the same brand markings and showing on the face that same is in lieu of the original certificate. The assignee pays a fee of two dollars.⁵

² Man., 1919, ch. 4, sec. 8

³ Man., 1919, ch. 4, sec. 9

⁵ Man., 1919, ch. 4, sec. 10.

ASSIGNMENT OF BRAND.

I (or we), being the recorded owner of the brand shown in the margin hereof, certificate of record of which is hereto attached, hereby assign and transfer to.....of.....all.....right, title and interest whatsoever, to said brand, and hereby request that you will make the necessary transfer to the said.....of such brand in your record and.....enclose herewith the sum of two dollars as the authorized fee therefor under "The Brand Act"

Dated at.....this.....day of.....A.D.

Witness:

.....
 Owner.

 P O. Address.

Penalties for Misuse of Brands.—Any person branding or attempting to brand with his own or any other brand, or obliterating, altering, destroying or defacing any brand on any cattle or horse not belonging to himself, without the consent of the owner of such animal, is liable on summary conviction to a fine not exceeding two hundred dollars, and, in default of payment of such fine, to imprisonment for a term not exceeding three months.^a

Sales of Branded Cattle.—Upon every transfer of any cattle or horse marked with the recorded brand of the transferor the transferor must also mark his vent on the animal so transferred unless, at the time of such transfer, the brand is also transferred to the transferee of the animal. Any transferee taking possession of any cattle or horse for the purpose of slaughter or shipment out of the province may waive his right to claim that such animal be marked with a vent, but in such case the transferor must give to the transferee a statement, which is accepted as evidence of the transfer of such animal wherever such evidence may be re-

quired during a period of thirty days from the date of such statement.⁷

NOTICE OF TRANSFER OF BRAND.

To all whom the same may in any wise concern:

Take notice that I have this day sold (numbers and description of animals sold) to (name of person) branded with my recorded brand

No Description.

Dated at this day of

19

Signature.

Cancellation by the Minister.—In certain cases if two or more owners of cattle or horses have the same or conflicting brands recorded, the Minister may, if he deems it advisable, authorize the cancellation of the brand last recorded, or with the sanction of the owner of any brand previously recorded. The Minister may allot another in lieu thereof without charge.⁸

Brands May be Cancelled Under Certain Conditions.

—All brands allotted, and save as hereinafter provided, all rights of the owner thereto, therein or thereunder are, after notice to such owner, mailed to his last known address by registered mail, cancelled and determined upon the several dates respectively hereinafter mentioned, that is to say:—Those allotted prior to January 1st, 1917, upon December 31st, 1919. Those allotted subsequent to December 31st, 1916, upon the 31st day of December in the third year next following the year during which such brand was allotted. During the year in which any brand would become cancelled, the ownership may be renewed for a further period of three years from the end of such year. If the brand has become cancelled the owner, subject to the approval of the Minister, may apply for the reallocation to him of

⁷ Man., 1919, ch. 4, sec. 12.

⁸ Man., 1919, ch. 4, sec. 13.

the same brand. After the cancellation, no brand can again be allotted to any person, other than the former owner, until after the expiration of five years from the date of such cancellation.⁹

Searches.—Any person may search or procure the search of the brand record and obtain certified extracts during the regular business hours of the department upon payment of a fee of fifty cents.¹⁰

Changes in Brands.—The Minister may, upon the application of any owner accompanied by a fee of one dollar, make changes in any brand or in the form or the location on the animal thereof not inconsistent with the brand law.¹

Vents.—The owner of any brand may at any time make application to the Minister for the allotment of a vent to the brand of which such applicant is the owner, and such a vent may be allotted by the Minister, recorded by him, and a certificate of record thereof issued to the applicant. A charge of one dollar can be made by the Minister for such allotment and certificate. Upon the transfer of cattle or horses marked with the recorded brand of the transferor the said transferor must mark his vent mark on the animals so transferred, in accordance with the law covering the use of such vent.²

Registration of Vents.—In the Department of Agriculture and Immigration a book is kept in which is recorded a full description of the vents allotted, names

⁹ Man., 1919, ch. 4, sec. 14.

¹⁰ Man., 1919, ch. 4, sec. 15.

¹ Man., 1919, ch. 4, sec. 16.

² Man., 1919, ch. 4, secs. 17, 18.

of the owners of brands so vented and a full description of the brand which is being vented. The Minister may satisfy himself that no brand or brand plus its recorded vent has previously been allotted of the same markings as the brand of the applicant plus the vent recorded.³

Penalties for Misuse of Vents.—Any person obliterating, altering, destroying or defacing any vent on any cattle or horses not belonging to himself, without the written consent of the owner of such animals, is liable on summary conviction to a fine not exceeding two hundred dollars and, in default of payment of such fine, to imprisonment for a term not exceeding three months.⁴

CHATTEL MORTGAGES AND BILLS OF SALE.

A Bill of Sale.—This is a document in writing usually under seal executed by a seller of goods (the vendor), whereby he conveys his right, title and interest in the goods to a buyer, who is called the vendee.

A Chattel Mortgage.—This is a document in writing usually under seal, executed by an owner of goods, to the mortgagor, whereby he mortgages or pledges such goods for debts or advances of money by the mortgagee. The goods usually remain in the possession of the mortgagor.

Registration.—The Bills of Sale and Chattel Mortgage Acts require such instruments to be registered. The instruments themselves are to protect the buyer or mortgagor respectively. The registration is to pro-

³ Man., 1919, ch. 4, sec. 19.

⁴ Man., 1919, ch. 4, sec. 20.

tect the public by giving notice that persons other than those in possession of the goods in question have rights in them.

Parties.—Any person who can legally contract can make a valid bill of sale or chattel mortgage.

Consideration.—Any consideration which will support a contract will make valid a bill of sale or chattel mortgage.

Form and Contents.—A bill of sale or chattel mortgage must be in writing. Stationers usually carry in stock printed forms which generally meet the requirements of the Acts. The instrument should contain:—

- (a) Date;
- (b) Names of parties (mortgagor and mortgagee, seller and buyer, as the case may be), with full description, name, surname, postoffice address and occupation;
- (c) The actual amount advanced if a chattel mortgage, and the amount paid for the goods if a bill of sale.

It is important that:—

- (a) A complete description of each article intended to be mortgaged or sold should be given so that such article may be readily identified. The land upon which the goods are situated, and when possible the exact locality of each article should be accurately described. When household goods are sold or mortgaged it is sufficient to describe accurately the larger and more important articles and refer generally to smaller articles if they are described as being all the household goods and chattels in a particular house or rooms;

- (b) The usual covenants as to insurance, sale of goods upon breach of conditions by the mortgagor, such as default of payment at the time mentioned, substituted goods, etc., should be inserted;
- (c) The instrument be sealed and signed in the presence of a witness, who must make an affidavit of execution; and,
- (d) That there be an affidavit of bona fides by the purchaser of the goods or the mortgagee (as the case may be) that the instrument duly sets forth the true consideration and is made in good faith and not to protect the goods against the creditors of the seller or mortgagee.

Goods and Chattels.—All goods and chattels capable of complete transfer and delivery, such as live stock, machinery, grain, household goods and furniture, etc., can be the subject of a chattel mortgage or bill of sale. Fixtures, i.e., articles affixed to and intended to become part of land or buildings permanently; or timber, growing grass, gravel, minerals, coal, oil, precious metals, until these are separated from the land; or growing crops or crops to be grown in future, unless the mortgage or bill of sale is given to secure advances for seed grain, cannot usually be the subject of a chattel mortgage or sold under a bill of sale. Mortgages upon growing crops or crops to be grown may be given to secure advances for seed grain and certain other things in some provinces.

Fraud.—If any fraud in connection with the transaction is proved the instrument is null and void. For example, if an insolvent disposes of goods under a bill

of sale or obtains money on them by a chattel mortgage in order to put such goods out of reach of his creditors, and the purchaser or mortgagee of the goods can be shown to have had knowledge of the other's fraudulent purpose, the instrument may be set aside.

Compliance with Statute.—As these statutes are to protect persons purchasing or loaning money on goods the provisions and rules contained in the statutes must be strictly followed, otherwise the chattel mortgage or bill of sale may be set aside. A solicitor should always be employed in such transactions.

CONTRACTS.

Generally.—A contract is an agreement, enforceable at law, between two or more persons to do or abstain from doing some act. If it is in writing and under seal it is a specialty contract. If it is not sealed, whether in writing or not, it is a simple contract. In a simple contract, that is, one which does not carry a seal, valuable consideration must pass between the parties to make the contract binding. Contracts are composed of two elements, an offer by one party to another to do or refrain from doing or refraining from doing other things and an acceptance of that offer, by that other party. An offer, unless it is under seal or unless value is given to keep it open for a certain length of time, (e.g., an option to purchase land given for a month, for which \$1.00 is paid), can be revoked at any time before it is accepted by the other party, but as soon as it is accepted by the other party it becomes a contract binding on both parties. A letter of acceptance once posted completes the contract and binds both

parties even though it never reaches the one to whom it is addressed. Options are offers, by an owner of property, to sell the property at a given price, for a certain length of time. If the option is under seal or value is given for it, it may not be withdrawn until the time for which it is given expires. In other cases an option may be withdrawn at any time. It does not become a binding contract until accepted by the other party. Such acceptance may be by letter or by word of mouth, but it is much safer and better to have the acceptance in writing.

Contracts Requiring Writing.—Certain contracts must be in writing, for example:—

- (a) Bills of exchange and promissory notes;
- (b) Assignments of copyright;
- (c) Acceptance for transfers of shares in companies;
- (d) Acknowledgment of a debt barred by the Statute of Limitations;
- (e) Lien notes;
- (f) Leases for more than three years;
- (g) Certain contracts under the Statute of Frauds, namely: (1) Where an executor or administrator agrees to answer damages due from the deceased's estate out of his own estate; (2) whenever any person guarantees the debt of another, i.e., becomes his surety; (3) any agreement made in consideration of marriage. Promises to marry need not be in writing, but agreements to settle lands or annuities in consideration of marriage require to be in writing; (4) any agreement to sell lands or any interest in lands such as the sale of a farm or of a farm lease, or an agree-

ment to give a lease; (5) agreements not to be performed within one year, such as contracts for service for say a year and a half. Although the contract is for an indefinite time if it can be performed within one year no writing is necessary; (6) an agreement to pay a commission on a sale of real estate in Alberta; (7) declarations of trusts of lands and grants and assignments of any trusts; and

- (h) Every sale of goods of the value of \$50.00 or over must be in writing unless the buyer accepts part of the goods and actually receives them or makes a part payment thereon or gives something in earnest to bind the bargain.

Requisites of Writing.—In the case of contracts within the Statute of Frauds no special form of writing is necessary, but it is required that:—

- (a) Names of all parties to the agreement must be so named and described so as to be identified easily. The full name, postoffice or street address and occupation should be given;
- (b) The subject matter of the contract, viz., that which is to be sold or done under the contract, must be exactly described so as to be readily identified. If land is sold the land should be accurately described; if goods, the goods should be fully described, etc.;
- (c) In the case of a contract contained in several writings, as correspondence between the parties, the letters forming such correspondence must be connected by reference in each one to the other and be complete;

- (d) The price or value for the contract must be mentioned;
- (e) The agreement must be signed by the person to be charged, that is, the person who is to be held liable. The signature may be anywhere on the contract and may be in lead pencil or ink. If a person cannot sign, he should make his mark in the presence of two witnesses. Signatures to contracts should always be witnessed.

Contracts Not in Writing.—The classes of contracts mentioned above must be in writing in order to be valid, but for the purpose of proving what the terms of a contract are, nothing is so satisfactory as writing, and therefore it is well to put all contracts in writing. Oral contracts, i.e., contracts by word of mouth, although valid in law (if not within the classes referred to as required to be in writing) are difficult to prove.

Contracts Under Seal.—A contract for which no valuable consideration is given must be under seal to be enforceable.

Consideration.—Consideration is the thing handed over, or the act done or omitted to be done, by each party in exchange for what is given, or done, or omitted, by the other. Thus money is the consideration for goods bought, and the goods are the consideration for the money. Likewise work is the consideration for wages, and the wages are the consideration for the work. The value does not need to be adequate. The contract will be enforced even if the value given is ridiculously small or unjustly large, unless one of the parties was placed in a somewhat helpless position. The courts will not make people's contracts for them,

however, and any consideration having any value in the eyes of the law will support a promise under a contract. The consideration may be money, goods, lands or a benefit of some kind passing from one party to the other.

Parties.—Generally any person may enter into contract, but there are some qualifications to this rule. Thus persons under 21 years of age cannot be held liable upon contracts they enter into or for money lent to them unless they are for necessities, i.e., articles necessary for them in their condition of life, as food, necessary clothing, school books. But they may, upon coming of age, ratify and be bound by such contracts. Corporations are also subject to special rules, and can only enter into such contracts as their charters permit. Lunatics and drunken persons are liable upon contracts entered into by them unless they can prove that the other contracting person knew at the time of the contract that they were so drunk or insane as not to be conscious of what they were doing and were thus unable to contract intentionally. Married women may contract and can be held liable to the extent they are possessed of property, lands or goods, separate and distinct from their husband. A husband is only liable for his wife's contracts or debts when she contracts as his agent or for necessities with which he has neglected or refused to supply her.

Mistake.—Both parties to a contract may be mistaken as to important matters connected with the contract resulting in the same being voided by either of them. If both parties, for instance, are under the impression that the thing they have in mind and about

which they are contracting, such as a ship at sea, is in existence when, in fact, it has ceased to exist, the contract is void from the beginning. In all other cases where only one party is mistaken he can usually have the contract set aside only where the other person knowingly contributed to the mistake.

Fraud and Misrepresentation.—Where one party, knowingly or innocently, deceives or misleads the other party as to something in the contract which is of such importance, to the mind of the party misled, that he would not have entered into the contract had he known the truth, he may be relieved from his contract.

Physical Force.—Where a person is compelled against his will to sign a contract by the use of physical force he is not bound.

Illiterate Persons.—When blind or illiterate persons without any independent advice have the terms and contents of a contract misrepresented to them so that they think they are signing something altogether different from the contract they do sign, they are not bound. This only applies to blind and illiterate persons. Ordinarily educated persons who can read cannot escape liability on contracts they sign by saying that they did not know what the contract contained.

Presumption of Undue Influence.—Certain relationships, such as solicitor and client, medical adviser and patient, parent and child, guardian and ward, parishioner and spiritual adviser, clergyman or priest, require that dealings between any persons of these groups must be free from any suspicion of unfair advantage, and the person seeking to enforce the contract must prove

that sufficient value was given and that advantage was not taken of such relationship.

Contracts in Breach of Statute.—Contracts in breach of a statute will not usually be enforced.

Illegal Contracts.—Wagering (betting) contracts will not be enforced, neither will contracts for which the value given is some immoral consideration. Contracts restricting a person's freedom to marry whomsoever he or she will, or in general restraint of trade, such as promising never to engage in any business again, will not be enforced. But contracts depriving a person of something in case he marries a particular person and restricting a person from carrying on business in a limited area for a definite length of time will be enforced.

Assignment of Contract.—No person may, without the consent of the other party to a contract, rid or relieve himself of his liabilities thereunder by assigning or transferring such liabilities to another. Benefits, however, arising under a contract, such as moneys due under it, may be assigned. Whenever the benefits of a contract, such as moneys payable under it, are assigned, the person to whom the benefits are assigned should forthwith give notice in writing of such assignment to the party to the original contract from whom the benefits are to be received. It is advisable to do this in any event. An assignee of the benefits of a contract may sue in his own name upon the original contract.

Alteration of Contract.—After a contract is signed and executed it can be altered only by consent of both parties. Such alterations may be written between lines or on the margin if the alterations are not extensive.

If they are extensive a new contract should be drawn up. Where a contract has been made in writing, its terms cannot usually be varied, altered or contradicted by other terms agreed upon by word of mouth. Exceptions to this rule are as follows:—

- (1) Additional terms of a contract not varying or inconsistent with any of the provisions of the written contract, entered into by word of mouth may be considered as forming part of a contract which is partly in writing and partly oral;
- (2) Terms of a contract may be explained by oral evidence;
- (3) A usage or custom, though not mentioned in the contract, may be shown to have been intended to be part of the contract;
- (4) Where both parties are mistaken as to matters connected with the contract, or by mistake of both parties a term or terms of the contract does not express their real intention, the contract may be altered and enforced in accordance with the real intention of the parties.

Second Contract.—If after a contract has been entered into by the parties to it, another contract referring to the same matter is entered into which is more or less at variance with the earlier contract, the later contract will be held to have superseded the earlier contract and only the second one will be enforceable. Two inconsistent contracts cannot stand side by side and both be valid and enforceable.

Discharge.—Contracts are discharged by:—

- (1) Both parties performing all they have to do under it;

- (2) By both parties mutually discharging each other. The discharge should, preferably, be in writing;
- (3) By the contract becoming, by fault of neither of the parties, impossible of performance, for instance, if the contract be to construct a building and the armies of an enemy made such construction impossible, or where if the contract is for personal services and the party contracting to serve becomes disabled or dies;
- (4) By a new and inconsistent contract;
- (5) By a provision within a contract providing for termination. For instance, where a contract of service provides that it may be terminated by notice, a notice delivered pursuant to the contract terminates it.

COMPANIES.

I. Nature.

Generally.—A company has in the eyes of the law an individual existence. It is an artificial person and being created by law its powers are limited by the law which brings it into existence. Thus it is limited to the extent of its charter. Companies are brought into existence by means provided by Provincial and Dominion Companies Acts. It is necessary to secure a Dominion charter when the objects of the company are connected with matters over which the Dominion Parliament has complete exclusive control or where the parties contemplate business which cannot be carried on in one province only. Although the procedure for incorporation is comparatively simple and a man of

ordinary business experience might comply with the forms prescribed for incorporation, the chances are that through the want of skilled legal advice serious errors would be committed. The services of a solicitor are, therefore, indispensable in the incorporation and subsequent organization of the company.

Private Companies.—These companies are usually composed of a very few individuals, although there must always be at least the legal number of shareholders. These companies do not offer their shares to the public, and are consequently excused from complying with a very large number of provisions, such as the filing of a prospectus and other requirements for the protection of the public. After the incorporation of a private company a small amount of formal organization is advisable, such as holding the preliminary meetings prescribed below, and the signing and sealing of agreements of the company. All contracts entered into should be executed under the company's seal and should be authorized by a resolution of the directors regularly passed at a meeting of the directors, proper minutes, of course, being kept. There should be kept a company seal, minute book, in which minutes of all meetings are entered, also a stock subscription book, setting out the amount of stock held by each shareholder with the amount paid thereon. In addition there should be kept the ordinary books of account kept by any business.

— **Public Companies.**—Companies offering their shares to the public for subscription, must comply with certain requirements, such as, filing a prospectus with the registrar of companies. These provisions aim at secur-

ing publicity for the company's affairs. When the company is being launched the services of a solicitor, preferably a skilled company solicitor, are indispensable. This is true of both private and public companies.

Provisional Directors.—The first officers of the company are provisional only. They sign the incorporation papers of company. Their tenure of office is, however, usually short lived. They usually retire at the first meeting of the company's shareholders.

Meeting of the Provisional Directors.—This meeting is for the purpose of calling the first general meeting of all the shareholders of the company, known as the statutory meeting. The law requires this to be called within a certain time after the company is incorporated. Along with the notice calling the meeting must be forwarded a report of the provisional directors of the company's affairs to date. This report must be filed with the registrar.

Statutory and General Meeting.—This meeting is called in order to inform the shareholders as to how the company has been floated and permit them to take matters into their own hands. A temporary chairman and secretary of the meeting are selected, the incorporation papers and charter of the company and the by-laws and seal are approved. Resolutions are passed for the acquisition of property and permanent directors are then elected. The meeting then adjourns till after the directors hold their meeting.

Directors' Meeting.—The newly elected directors elect officers from among themselves. Resolutions are passed respecting the amount of stock to be issued, the calls required, the issue and signature of stock cer-

tificates, the selection of a bank, etc., and the carrying out of any resolutions of the company respecting the purchasing of property.

Adjourned Meeting of Shareholders.—An adjourned meeting of the shareholders is then held to ratify the resolutions of the directors.

Ordinary General Meetings of Shareholders.—These must be called yearly, and no more than a certain time must elapse between such meetings or a penalty will be imposed.

Extraordinary General Meetings of Shareholders.—The directors may call an extraordinary meeting at any time of their own will, and must do so if the shareholders require it. Each shareholder must be notified in the manner prescribed in the company's by-laws. These shareholders' meetings are the means by which the shareholders control the directors who transact and direct the ordinary business of the company. Questions are decided and resolutions passed by votes of a majority of shareholders present in person or by proxy. A proxy is the written authority from one shareholder to another to vote for him at a shareholders' meeting in his absence. In case the by-laws of the company require a quorum, then no less than that number can transact business at a meeting.

Prospectus.—Public companies are required to file within a certain time with the registrar of joint stock companies a document called a prospectus or a statement similar to a prospectus.

The prospectus must contain a concise statement of the company's incorporation, management, prospects, etc., and be signed by the directors. If the prospectus

contains any false statement or misrepresents any matter mentioned therein each director will be personally liable to any shareholder damaged thereby, and if such shareholder acts promptly he can have his subscription for shares cancelled.

Turning Partnership or Small Business into a Limited Company.—The advantages of doing this are obvious. Partners or individuals in business are liable for all debts and obligations of the business. Shareholders in a limited company are liable only for the amount unpaid upon their shares. If money is to be borrowed, bonds or debentures of the company can be issued without the incurring of any personal liability by the shareholders. The partners or the owner of the business, together with such others as make up the number required by law, are usually the applicants for incorporation. After incorporation, an agreement is entered into between the owner or owners of the business and the company whereby the company takes over the assets, stock in trade, good-will, book debts, equipment, etc., the company assuming, with the consent of the creditors of the former business, the liabilities of such former business and the proprietors of such business receiving payment in shares of stock in the company in the proportion in which they were interested in the assets.

II. Shares.

Generally.—The capital stock of a company is contributed by the members of the company and the proportions of such capital to which each member is entitled are called shares.

Kinds of Shares.—Shares are either common, preferred or deferred. Preference shares are guaranteed

prior to other shares a specified dividend. Deferred shares are sometimes issued giving their holders a large share of the profits after the holders of preference and common shares have received a dividend.

Application for Shares.—A person desiring to purchase shares in a company signs an application for shares stating the number he wishes and the amount payable on such shares. The directors consider these applications, and if accepted the person applying is allotted the number of shares applied for, and is notified in writing to that effect. Printed forms of application are usually supplied by the company. Until the applicant for shares receives notice that the shares applied for have been allotted to him he is probably not liable to pay for them.

Issues of Shares at a Discount.—As a general rule shares cannot be issued at a discount, that is, as fully paid, when in fact only part of the par value has been paid on them. The shareholders who hold such shares are liable to creditors of the company for the amount unpaid. However, shares may be issued at a discount in the case of mining companies, the memorandum of which expressly provides for issue at a discount.

Who May Hold Shares.—When shares are paid for in full or fully paid up they may be held by any person. Only persons who may contract may apply for and hold shares which are not fully paid up. As a rule no company can hold the shares of another company unless its charter permits it.

Transfer of Shares.—This is effected by the holder of shares signing a transfer. A form of transfer is usually printed on the back of the share certificate.

The transfer must be approved by the directors, who have the right to disapprove if the shareholder is indebted to the company.

Sale of Shares.—It is unlawful for any person or company to sell or attempt to sell “in the course of continued and successive acts,” or advertise for sale shares or bonds (except government, provincial and municipal securities, and certain other securities approved by the Board of Public Utility Commissioners or the Local Government Board, without first obtaining from the said Board or Commissioner a certificate for the sale and a license for the selling agent, if there be one. Before such certificate can be obtained the applicant must file in the office of the Commissioners, a detailed statement of the plans and financial condition of the company and a copy of its charter and by-laws and pay certain fees. Since the prohibition is against selling without a certificate “in the course of continued and successive acts”, a company or person may possibly make a private occasional sale of shares without first obtaining the certificate, unless the company is selling or attempting to sell the whole or any part of its own shares or bonds. Persons violating the above provisions are liable, on conviction, to fine or imprisonment.

Calls.—A percentage of the price of the shares is usually paid upon application. Further portions of the amount still due must be paid at such times as the directors require. These portions of the price still due on shares and called in by the directors are known as calls. If these calls are not paid at the time specified the directors may enter suit for them.

Share Certificates.—Stock or share certificates are issued as evidence that the person named therein is a shareholder. These certificates are under the company's seal and are signed by two officers or directors of the company. They should state the name of the shareholder, the number of the certificate and the number of shares which it represents.

Forfeiture.—If a call is made on shareholders and the amount of the call is not fully paid on the day specified in notice of call, then after the directors have notified the shareholders in the manner provided in the company's by-laws the shares may, if the shareholder refuses to pay the call, be forfeited to the company.

Bonds and Debentures.—When a company borrows money by mortgaging its property it usually issues bonds or debentures. Most companies are permitted by their by-laws to borrow money. The holders of these bonds and debentures are mortgagees of the company and have similar rights in the recovery of their loan as a mortgagee of land.

Care in Subscribing for Shares.—Many people have lost money by purchasing shares which have subsequently proved to be valueless. Such people often blame the Government for lack of supervision of companies, or call the promoters who sold the shares swindlers and other hard names. Almost invariably the real fault lies with the purchaser himself. No man or woman should buy shares in any company without first making thorough enquiries into the affairs of the company, its directors, its capital, the nature of its business, its prospects of making profits and paying dividends. The law cannot protect a man from his own

carelessness or make good for him his errors in judgment.

III. Directors.

Election.—The permanent directors for the year are elected in the manner prescribed in the company's by-laws at the first statutory meeting of the shareholders mentioned above. The articles or by-laws usually provide for the retirement each year of a certain number of the directors and election of others at the annual general meeting.

Powers.—The directors control the ordinary business of the company. They are accountable to the shareholders who they represent and act for. A small board of directors is generally sufficient. They should be and generally must be shareholders of the company. A director cannot retire from office except with the consent of his co-directors.

Meetings of Directors.—Directors may meet and adjourn as they think fit. A director may at any time summon a meeting by notice. They also determine what constitutes a quorum for a meeting. They must vote in person and not by proxy. Where the votes are a tie the chairman has a casting vote. A majority of votes are necessary to carry resolutions. Minutes of all meetings should be kept.

Disqualification of Directors.—The articles or by-laws of a company generally provide that a director shall be disqualified if he holds any other place of profit under the company or becomes insolvent or ceases to hold the number of shares required to qualify or fails to attend to his duties. It is now customary to provide

in the articles that directors may contract with the company.

Liability of Directors.—The articles or by-laws of a company may provide that the directors shall, to an unlimited extent, be liable to the creditors of the company, but after any such directors leave the directorate they are liable only as ordinary shareholders for debts contracted after they leave. This is also the case with a director who resigns more than a year previous to the winding up of the company. Directors are also personally liable to an action for damages for deceit in respect of false statements contained in the company's prospectus. Directors may purchase property from and sell to the company if the articles so provide, or if the company in general meeting approves of the transaction after full disclosure thereof.

Consent.—No man may be made a director without his written consent, and if his liability for the company's debts is to be unlimited he must be notified to that effect when elected.

Interference by Shareholders.—Shareholders have no right to interfere with what a director does within his powers as a director. They may, however, review and criticize such acts at the shareholders' general meeting. If loss occurs to the company through acts done by the directors acting in good faith and within their powers the shareholders cannot hold the directors liable.

Chief Officers.—The president is the chief executive officer. He presides as chairman of meetings of the board of directors. If he is unable to give all of his time to the management of the company's affairs a

managing director is appointed who takes charge of the company's business.

IV. Winding Up Companies.

Generally.—Any company's existence may be terminated by a procedure called a winding up. An official, known as a liquidator, is appointed, the company's assets are sold or realized upon, its creditors paid. The residue, if any, is divided among the shareholders. The liquidator of a company which is being wound up occupies the same position as an assignee in an assignment for the benefit of the creditors.

Voluntary Winding Up.—This is commenced by the shareholders themselves by a resolution that the company be wound up. The same or another resolution may appoint the liquidator. Notice must be given to all creditors, and if they see fit, they may request that some liquidator other than the one named be appointed. After the liquidator is appointed the winding up is carried on by the liquidator under the control of the shareholders and directors. The liquidator calls in all of the amount due and payable by the shareholders on calls, sells and realizes on the assets, pays creditors and the costs of the winding up and distributes the balance, if any, among the shareholders. The liquidator may at any time apply to the court for direction and assistance.

Voluntary Winding Up Under Supervision of the Court.—The creditors or shareholders may at any time during the winding up, petition to the court to supervise the winding up. The liquidation under such supervision goes on as before, only that the court may ap-

point some other liquidator or committee of inspection and require the liquidator to report to the court from time to time.

Compulsory Winding Up by the Court.—If a company is insolvent (that is, unable to pay its debts in full) it may either make an assignment for the benefit of creditors, if the creditors consent, or, if the creditors do not consent to an assignment, they could compel the company to be wound up by the court under the provisions of the Dominion Winding-up Act. Dominion Companies must also be wound up under this Act. The company will be wound up by the courts under the provisions of the Provincial Winding Up Acts whenever:—

- (a) The company in general meeting passes a resolution requesting the court to wind it up; or
- (b) The company neglects to file the yearly report or to hold the statutory meeting; or
- (c) The company either does not commence business for a year or suspends for a year; or
- (d) The company's membership is reduced below the minimum required by law; or
- (e) The court deems it advisable to wind the company up.

Upon a winding up order being granted and a liquidator being appointed, the company only continues to exist for the purpose of the winding up, and in such winding up no one but the liquidator and the court has any authority or right to interfere. The liquidator proceeds to sell and realize on all the assets, make calls from shareholders who still owe any amount of money in respect of shares held by them. Shareholders who

have paid for their shares in full incur no further liability. The liquidator then publishes a notice requiring all creditors to file their claims with him within a certain time.

Distribution of Assets.—When the assets of the company have been realized or as much of such assets as may be have been turned into cash the proceeds are distributed as follows:

First—Expenses of winding up; the liquidator's remuneration and expenses and legal fees;

Second—Salaries overdue and unpaid, but earned, covering a period not exceeding three months prior to the winding up order;

Third—Costs of execution creditors and others who had seized goods of the company before the winding up;

Fourth—The general creditors of the company, which includes claims for debt or damages, taxes and rent, where no distress made before the winding up.

Where goods of the company are seized for overdue rent or taxes before the winding up, the landlord or municipal authority retains such goods absolutely and can sell and retain the proceeds. The holders of securities, that is, creditors who are secured, have the same rights as in an assignment for the general benefit of creditors. Mortgagees of the company, the holders of the company's bonds and debentures, have the same rights as ordinary mortgagees. They may either foreclose on their mortgage or assign it over to the liquidator at a price settled upon.

CORPORATION TAX

I. Alberta.

Generally.—Every company, joint stock company, corporation, association, individual, partnership, syndicate or trust (being of the classes of companies or corporations, or being an individual partnership, syndicate or trust hereinafter mentioned) which transacts business in the Province of Alberta under its, his or their name or otherwise or through an agent or agents, must, annually, pay to the Crown in this province a corporation tax. It will be noticed that there must be a “transaction of business” within the province. This term is rather misleading to the average individual. It has been found necessary to state exactly what it means. The term “transact business” includes (in addition to its ordinary meaning) selling or bartering or offering for sale or barter any of the shares or stock or other interest in the company or corporation. Business transacted by an agent of a company or corporation is deemed business transacted by such company or corporation.

Banks.—Every head office of a bank pays a corporation tax of \$1,200. Every such bank pays an additional tax of \$200.00 for each branch office or agency. It includes any corporation or joint stock company whatsoever incorporated for the purpose of doing a banking business, whether the head office is situated in the Province of Alberta or elsewhere, which transacts a banking business in Alberta and includes a savings bank.

Private Banks.—Every private bank, other than private banks in villages, pays a tax of \$200. In villages

private banks pay a tax of \$100. All such banks pay an additional tax of \$25 for each branch office or agency in the province, but no such latter tax is levied upon more than one office, branch or agency in any one city, town or village, or village centre. Private bank means any person or any number of persons associated together, transacting and doing a general banking business in the Province of Alberta.

Loan Companies.—Every loan company which transacts business in the Province of Alberta pays a tax of one-half of one per cent. on the gross income of the company received during the year from its investments in the province, of whatever nature, including in such gross income any bonuses received for allowing prepayment of loans and revenues of any other nature from such investments, including interest received on all bank accounts; with a minimum tax of twenty-five dollars when the paid-up capital of the company is less than fifty thousand dollars, and fifty dollars when the paid-up capital is fifty thousand dollars or more, but less than one hundred thousand dollars, and one hundred dollars when the paid-up capital is one hundred thousand dollars or more. The provision respecting the minimum tax applies to a company during the first year of doing business in the province, as well as thereafter. The expression "loan company" embraces and includes every investment company, mortgage company, loan company and loaning land company, and also every corporation, incorporated company and association where-soever incorporated, not being a bank, whose business or one of whose businesses is to lend money at interest, on the security of real estate, or any interest therein,

either to the public or its own members, whether the head office is in Alberta or elsewhere, which carries on any such business in Alberta, even though the mortgages or other securities belonging to such company, corporation, or association may be taken in the name or names of some person or persons or corporation other than the company or corporation or association taxable.

It is not lawful for a loan company to charge any portion of the tax payable by it hereunder to any mortgagor or borrower from the company, either by adding a portion of such tax, or an amount stated to be in respect of or for such tax, to the periodical payments of principal or interest, or principal and interest, and other charges payable by such mortgagor or borrower to the company, or otherwise, and any loan company that violates these provisions is liable, upon summary conviction, to a fine of not less than \$10 and not more than \$50. The justice or magistrate may by his conviction order that the amount (if any) which has been obtained from any mortgagor or borrower by the loan company in respect of the tax payable by such company hereunder be forthwith refunded to such mortgagor or borrower by the loan company.

Insurance Companies.—Every insurance company *which transacts business* in the Province of Alberta pays a tax of one per cent. calculated on the gross premiums received by such company in respect of the business transacted in the Province of Alberta during the preceding year, but in the case of mutual fire insurance companies which receive premiums in cash the tax is calculated on the gross premiums received by such com-

panies in cash in respect of the insurance transacted on the cash plan in the said province during the preceding year. "Gross premiums" in this clause is not taken to include any portion of the premium which is returned to the insurer by way of refund. In the case of an insurance company which lends or invests money on securities in the province, and has invested in the province more than fifty thousand dollars, such company (in addition to the one per cent. of gross premiums) pays a tax of one-quarter of one per cent. on the gross income of the company received during the year from its total investments in the province. In the case of re-insurance by an insurance company, the principal company is exempt from the tax imposed by the Act on the portion of the premium paid to the re-insuring company, but the company receiving the premium for the re-insurance is nevertheless liable for the tax in respect thereof as part of its gross premiums. Where the re-insuring company does not conduct business in Alberta or has no principal or head office therein, the principal company must retain in its hands so much of the said premium as will be equivalent to the tax by the Act imposed on or in respect of such premium and is liable for the tax and for the payment thereof to the Minister. The expression "insurance company" embraces and includes life, fire, hail, ocean, marine, inland transit, accident, plate glass, steam boiler and burglary insurance companies and every guarantee company wheresoever such companies may be incorporated, whether the head office is situated in the Province of Alberta or elsewhere, which transacts business in the Province of Alberta, but does not include mutual fire

or hail insurance companies (unless where any mutual fire or hail insurance company transacts business on the cash plan) or friendly, fraternal or charitable societies or associations, chartered or licensed by the Dominion of Canada or any of the provinces thereof, transacting insurance in the Province of Alberta.

All premiums payable to any insurance company on or in respect of any policy or renewals are for the purposes of the Act deemed to be payable within the province to any and every insurance company doing business in the province, and the taxes aforesaid are payable by the company, upon and in respect of all such premiums, whether they are paid or made payable in the province, or elsewhere than in the province, and whether such premiums are wholly earned or partly earned in Alberta, and whether the policies are issued to or held by persons, who resided at the time of the issue of the policy or who afterwards resided in Alberta, and whether the business in relation to such policies is or was transacted in whole or in part within Alberta or elsewhere.

Land Companies.—Every land company which transacts business in the Province of Alberta pays a tax of forty cents for every thousand dollars of money invested in the province, including money invested in the purchase or acquisition of lands or other real or personal property, money remaining unpaid at the end of the preceding calendar year on any sales of such land, no matter when made, with a minimum tax of twenty-five dollars when the paid-up capital of the company is less than fifty thousand dollars, fifty dollars when the paid-up capital of the company is fifty thousand dollars

or more, but less than one hundred thousand dollars, and one hundred dollars when the paid-up capital is one hundred thousand dollars or more. The minimum tax applies to a company during the first year of doing business in the province as well as thereafter. The expression "land company" embraces and includes every corporation, incorporated company and association, wheresoever incorporated, empowered under its charter, act of incorporation or articles of association to buy and sell land or other real properties in Alberta, which has, during or at any time within the year for which the tax is being collected, bought or sold lands, held lands for sale or had, at the end of the calendar year preceding taxation under the Act, among its assets any money remaining unpaid on any sale of such lands, no matter where made, and including any such investment or invested moneys owned by the company, corporation or association, which may be taken in the name or names of some person or persons or corporation other than the company, corporation or association taxable.

Trust Companies.—Every trust company which transacts business in the Province of Alberta pays a tax of one-half of one per cent. on the gross income of the company received during the year from its total investments in the province, including in such investments all moneys invested in the purchase of lands or interest therein, and including also money invested on behalf of or in trust for any person, unless such person, being another corporation, has paid taxes to the Government upon such investments, and including all unpaid purchase moneys on lands or interests therein which have

been sold, as shown by a statement of the affairs of the company, with a minimum tax of \$100 where the paid-up capital of the company is \$100,000 or less, and \$175 if the paid-up capital exceeds \$100,000. This minimum tax applies to a company during the first year of doing business in the province as well as thereafter. The same tax is payable by every trust company in respect of such moneys invested, although the mortgages or other securities therefor may be taken in the name or names of some person or persons or corporation in trust for or on behalf of such trust company. In all cases of investments of moneys belonging to any company or corporation through a trust company, the tax upon such trust company in respect of such investments is not to be greater than if such investments had been made directly by such first mentioned company or corporation.

Street Railway Companies.—Every street railway company in the Province of Alberta, and every company working or operating a railway or part thereof entirely or partly by electricity in any city in the said province for carrying passengers pays a tax of \$200 in each and every year where the whole line of track is twenty miles or less, and \$10 for each mile of track in excess of said twenty miles. In all cases the mileage is computed on the single track, each mile of double track being counted as two miles of single track. Switches or sidings, tracks into car sheds, Y's and portions of track not in general use are excluded from the computation of mileage.

Telegraph Companies.—Every company doing a general commercial telegraph business in the Province of

Alberta pays a tax of one per cent. of its gross revenue, without any deductions whatsoever, earned, derived, accrued or received from any source whatsoever which may arise from business transacted in the province, and the Provincial Secretary may take such steps to ascertain what proportion of the said gross revenue does arise from business transacted in the province as to him seems necessary or expedient.

Telephone Companies.—Telephone companies working or operating telephone lines or systems in the province for gain pay the following tax: in cities having a population of ten thousand or over, an amount equivalent to 50 cents upon each telephone instrument under rent from each of the said companies respectively; in cities having a population under ten thousand and in incorporated towns and villages, an amount equivalent to 25 cents upon each telephone instrument under rent from each of the said companies respectively.

Gas Companies.—Every company or corporation, other than a municipal corporation, in any city in the province supplying gas for illuminating or other purposes for gain, pays a tax of \$500.

Electric Lighting Companies.—Electric lighting companies in the province supplying electricity for illuminating or other purposes for gain, pay the following tax, that is to say: In cities possessing a population of ten thousand or over, \$500; in cities possessing a population under ten thousand, \$100; in incorporated towns and villages, \$25. This provision is not applicable to any electric works owned and operated by a municipality.

Express Companies.—Every express company doing

or being concerned in an express business in Alberta pursuant to any traffic arrangement or agreement with a railway, express or other company, pays annually the following tax:

1. \$45.00 for each incorporated town in which such an express company has an office, branch or agency, or offices, branches or agencies;
2. \$45.00 for each incorporated city having a population of less than 5,000 in which such an express company has an office, branch or agency, or offices, branches or agencies;
3. \$160.00 for each incorporated city having a population of 5,000 or over, other than the City of Edmonton or the City of Calgary, in which such an express company has an office, branch or agency, or offices, branches or agencies;
4. \$250.00 for each of the cities of (a) Edmonton, (b) Calgary, irrespective of the number of offices, branches or agencies.

The tax on express companies is due and payable on the 1st of January each year.

Joint Stock Companies.—Every company, joint stock company and corporation (other than municipal corporations) whose authorized capital exceeds \$20,000.00 which transacts business in Alberta and is not otherwise taxed by the Act, pays an annual tax as follows: Twenty cents for every \$1,000.00 of its authorized capital. The total annual tax payable by any such company under the Act does not exceed \$500.00. This tax does not apply to an individual, a partnership, an unincorporated syndicate or trust, nor to any person, company or corporation referred to in chapter 30 of the

Statutes of Alberta, 1906, and amendements thereto, nor to the Alberta Farmers' Co-operative Elevator Company, Limited.

The taxes imposed on joint stock companies become due and payable on the first day of January of each such year. When a company, joint stock company or corporation first commences business after the thirtieth day of June, 1916, or after the first day of January in any subsequent year, the tax is deemed to be due and payable by such company, joint stock company or corporation upon the date of its so first commencing business. If such business is so first commenced at any time after the thirtieth day of June in any year, one-half only of the annual tax is to be paid for the then current calendar year.

The expressions "company," "joint stock company," and "corporation" respectively embrace and include every corporation, incorporated company and association to which the Act refers and which transacts, or which during the year in respect of which the tax is payable has transacted business in Alberta, whether now or hereafter incorporated by or under any statute or Act of Parliament or of a Legislature or by letters patent or otherwise howsoever, within the territories and dominions of the Crown, or within any foreign country and wheresoever organized and incorporated, and wherever the head office is situated or wheresoever the board of management or executive officers transact the business of the company, and also apply respectively to all similar companies, associations or corporations, which may be hereafter incorporated for such purposes as aforesaid and which transact business in

Alberta, and where any such corporation, company or association is placed in the hands or control of agents, assignees, trustees, liquidators, or receivers or other officers then to such agents, assignees, trustees, liquidators, or receivers or other officers. The expressions "company," "joint stock company," and "corporation" further respectively embrace and include an individual, a partnership, syndicate or trust, where the class or kind of business to which the Act applies is conducted or carried on in Alberta by such individual, partnership, syndicate or trust, whether the head office or chief place of business of such individual, partnership, syndicate or trust is in Alberta or elsewhere, but the word individual does not apply to an individual merely because of his lending money.

Natural Gas Companies.—Every company or corporation, other than a municipal corporation, supplying or dealing in natural gas is subject to a tax of one-quarter of a cent for every 1,000 cubic feet of gas flowing, drawn or pumped from or produced by a well, owned, leased, occupied or operated by such company. Where oil in paying quantities and natural gas are found in the same well, and the well is worked mainly for the production of oil, the gas is not subject to the tax hereby imposed. The amount of gas produced by any well must be correctly recorded each day, week or month, as the Minister prescribes, in a book of a form approved by the Minister, and the Minister may at any time direct that a meter be fixed by the owner, lessee, tenant, occupier or operator of every well, to every main pipe or duct at any point he may determine, through which all the gas flowing, drawn or pumped from the

well or wells shall pass, so as to indicate the total gross quantity of gas flowing, drawn or pumped from such well or wells, and such books and meters may be inspected or tested upon the direction of the Minister at any time or times.

Power Plants.—Every company or corporation which carries on business either partly or wholly in a city or town of a population exceeding 15,000, other than a municipal corporation, and the main object of which, in the opinion of the Minister, is the generation, distribution, supply or sale of motive power or energy of any description, pays a tax of \$1,000.00.

How and When Payable.—The taxes become due and payable on the thirtieth day of June in each and every year, except as previously mentioned. In the case of companies the taxes are based on the returns of such companies for the year preceding the date of payment. When a company has not before done business in the province and commences such business at any time after the thirtieth day of June in any fiscal year it is required to pay one-half of the tax for the year.

Penalty for Default of Payment of Taxes.—In case of default in payment of taxes, the same may be levied and collected with costs by distress upon the goods and chattels wherever found of the company liable therefor under a warrant signed by the Minister, directed to the sheriff of the judicial district in which the company in arrears may have any goods or chattels, and in such case the sheriff realizes the taxes, or so much thereof as may be in arrear, and all costs, by sale of such goods or chattels or so much thereof as may be necessary to satisfy the said warrant and costs; or the said taxes or

the penalty and double tax, or both, may, at the option of the Treasurer, be sued for and recovered with costs in any court of competent jurisdiction in an action to be brought in the name of the Minister, and the action or suit is tried by a judge without a jury.

Taxes to be First Lien on Assets of Company.—In case of liquidation or insolvency of any of the corporations or companies the amount unpaid of such tax is a first lien or preference upon the estate of such corporation or company, subject to the provisions of any statute in Canada, and to the cost and charges of liquidation or insolvency proceedings.

Annual Statement.—On or before the thirtieth day of June in each and every year every corporation or company which is doing business in the Province of Alberta must, *without any notice or demand* to that effect, deliver to the Government a detailed statement verified by the oath or affirmation of the president and manager, or vice-president and manager, or such other person or persons connected with the company or corporation having personal knowledge of the affairs of the company or corporation. This statement must be sworn to or affirmed before a commissioner for taking affidavits or a notary public, and contain the following:—

1. The name of the company or corporation;
2. The nature of the company or corporation, whether a person, partnership, joint stock association or corporation, and if a joint stock association or corporation, under the laws of what province organized;
3. The location of its principal office;

4. The names and postoffice addresses of the president, secretary, treasurer and general manager;
5. The name and postoffice address of the chief officer or manager in this province;
6. The number of shares of its capital stock, the number issued and the amount paid thereon;
7. The par value and market value, or if there be no market value, the actual value of its shares of stock;
8. The amount of the bond or debenture debt of the company or corporation, and the value thereof;
9. The amount of dividends, if any, paid upon each share of its stock during the twelve months immediately preceding the first day of January;
10. A detailed statement of the real estate owned by it situate within the province, where situate, and the value thereof;
11. The total value of the real estate situate without this province;
12. The total value of the personal property owned by the company or corporation: (a) situate within this province; (b) situate outside this province;
13. A statement showing the gross receipts and earnings of the company or corporation during the twelve months immediately preceding the first day of January, arising: (a) from business done wholly within this province; (b) from business done partly within and partly without this province; (c) from business done wholly outside this province;
14. In the case of a real estate company the amount of the unpaid purchase price of land sold by it;

15. In the case of a bank the number of offices or agencies thereof in this province;
16. In the case of a street or other railway operated by electricity the number of miles in operation within the province during the preceding calendar year computed in accordance with the requirements of subsection (g) of section 3 of the Act;
17. In the case of telegraph and express companies the total gross revenues, as reported by each head, main branch or other office within the province;
18. In the case of all companies such further information as may be required by the Minister to enable him to determine the tax payable^a by the company or corporation making such statement.

Time for Return.—The Minister may at his discretion and for good cause enlarge the time for making any such return.

Statement by Insurance Companies.—Every insurance company making the return must, in addition to the other particulars, state in the return the gross premiums received during the preceding year by the company in respect or on account of business wholly or in part or of policies issued to or held by persons residing in the Province of Alberta, whether such premiums were so received by the company within the province or were received by the company elsewhere in respect of such Alberta business.

Minister May Require Further Statement.—If the Minister of the province desires, in order to enable him to determine the correctness of any return made under the provisions of the Act, further information thereon, he may require the president, manager, secre-

tary or agent of the corporation or company to furnish a further statement under oath within thirty days. In case the required information is not furnished within the time limited as aforesaid, or in case the Minister is not satisfied therewith, the Lieutenant-Governor-in-Council may direct an inquiry to be made by a commissioner or commissioners appointed under "An Ordinance Respecting Inquiries Concerning Public Matters," and the determination of the commissioner or commissioners appointed under such Ordinance, after giving the parties an opportunity to be heard, is final as to the particulars mentioned in their report. The Lieutenant-Governor-in-Council may, however, for cause vary the said report, but the amount found by the commissioner or commissioners is not to be increased without giving the company or its agents an opportunity of being first heard. If the inquiry is occasioned by failure to furnish the information required by the Minister, the company or corporation pays the costs of the inquiry, but if the statement is found to be correct and the required information was duly furnished, the Minister may direct the costs of such of them as were necessary to be paid by the province, and he may for this purpose settle the same or may direct a taxation of such. In case the commissioner or commissioners find that the statement filed understates the amount on which the tax should be paid, the company or corporation, besides paying the costs of the inquiry, must pay as a tax such sum as is found payable under the report of the commissioner or commissioners with fifty per cent. added to the entire tax as the same would have been computed under the Act, unless the Lieutenant-Gover-

nor-in-Council shall otherwise order. The costs of the commission are determined and certified by the Minister, or he may direct the same to be taxed, and when payable to the Crown the same may be recovered in the manner herein provided for the recovery of taxes. If the Minister directs the costs to be taxed, the same must be taxed by the clerk or by the registrar or other officer of the Supreme Court as directed by the Minister.

Remitting Penalties.—When the commissioner or commissioners have found that the statement understates the amount on which the tax should be paid, and certify that such misstatement was not made with intent and for the purpose of decreasing the amount of taxes to be paid, but was made bona fide and in good faith and with no improper motive, the Lieutenant-Governor-in-Council may, upon the recommendation of the Minister, remit so much of the added percentage and so much of the costs as to him in his discretion may seem meet to do justice in the premises.

Revoking License.—In case any company or corporation neglects or refuses to make the return within the time prescribed by the Act or to furnish to the Minister any further or other information required after making such return or, having made such return and furnished such further or other information, it is found by the commissioner or commissioners that the return or the statements made by the company or corporation are glaringly inaccurate, and that the amount upon which the tax should be paid has been wilfully understated, the Minister may, in addition to subjecting the company or corporation to the penalties hereinbefore by the Act provided, order the cancellation of the license,

certificate or registration or other document of incorporation under which such company or corporation transacts and carries on business in the province, whereupon such license, certificate of registration or document is absolutely revoked and rendered null and void to all intents and purposes whatsoever.

Penalty for Neglecting to Make Returns.—Every corporation or company which, and the manager or agent in the province of any company as aforesaid who neglects to make the annual return and statements, are each liable to a penalty of \$20 per day during which default is made, and the company is also liable to pay a tax of double the amount for which it would have been liable under the Act. Any penalty or such double tax may be recovered in any court of competent jurisdiction in an action brought in the name of the Minister aforesaid to be tried by a judge without a jury. In any such action the said Minister has the right either before or after the trial, to require the production of documents, to examine parties or witnesses, or to take such other proceedings in aid of the action as a plaintiff has or may take in an ordinary action.

Effect of Not Paying the Tax.—The fact that any company, joint stock company or corporation is in arrears in payment of any tax or fee imposed upon it by this Act may be pleaded to any action brought by it and if established is an effectual bar to such action until such arrears are paid or extinguished. No registrar of land titles for any land registration district within the province can register any instrument made in favour of, or purporting to confer any interest in land, whether by way of caveat or otherwise, upon any

company, joint stock company or corporation until he is satisfied that such company, joint stock company or corporation is not in arrear for any tax or fee imposed by the Act.

Municipal Taxes.—Where a company or corporation pays the corporation tax, no similar tax can be imposed or collected by any municipality in this province. No company made liable to taxation by the Act, nor any of its agents, require any license, authorization or permit from any municipality for doing business in the municipality or for establishing agencies therein.

II. Saskatchewan.

Act.—Every company or corporation registered under the Companies Act, or which transacts business in Saskatchewan, pays an annual corporation tax to the Government of that province. This tax is collected under the provisions of *The Corporations Taxation Act, 1919*.¹

Definitions.—Certain words used herein have special meanings. “Bank” means a corporation or joint stock company, wheresoever incorporated for the purpose of doing a banking business, which transacts business in Saskatchewan, whether the head office is situated in Saskatchewan or elsewhere, and includes a savings bank. “Company” includes corporations and associations however or wherever incorporated and where any such corporation or association is placed in the hands or under the control of an agent, assignee, trustee, liquidator or receiver, or other officer, shall include such agent, trustee, liquidator, receiver, or other officer.

¹ Saskatchewan.—The Corporations Taxation Act (ch. 4). 1918-1919.

It also includes an individual, a partnership, syndicate or trust where the business is carried on in Saskatchewan by such individual, partnership, syndicate or trust, whether the head office or chief place of business of such individual, partnership, syndicate or trust is in Saskatchewan or elsewhere; but the word "individual" does not apply to an individual merely because of his lending money; nor do the words "individual" or "partnership" apply to individuals or partnerships merely because of their buying and selling lands. "Funds" include, in addition to the funds of the company, all funds used or employed by the company for or on behalf of or as agent of any person or corporation.

"Gross premiums" means the total amount of premiums in cash, including proceeds from the payment, sale or exchange of notes, and including securities or commodities which are accepted as the equivalent of cash, in respect of its Saskatchewan business received by a company on its own underwriting, whether initial or renewal, and for reinsurance, after deducting from such total the amount paid by the company in respect of its Saskatchewan business for returned premiums, cancellations and abatements, and also for reinsurance with companies operating under *The Saskatchewan Insurance Act*. In the case of companies applying for release of their securities under *The Saskatchewan Insurance Act* the expression includes premiums held in the form of promissory notes, together with cash received from the payment, sale or exchange of notes since the filing of the last annual statement. "Head office" means the office in Saskatchewan designated by

the company as its head office and where no such place is designated the place of business of the company that may be designated as the head office by the Lieutenant-Governor-in-Council on the recommendation of the registrar.

"Land company" includes every company, wheresoever incorporated, empowered under its charter, act of incorporation, memorandum of association, or articles of association to buy and sell land or other real property. "Loan company" includes every loan, investment, mortgage and loaning land company, and also every corporation not being a bank, an insurance company or a trust company whose business or one of whose businesses is to lend money at interest on the security of real estate or any interest therein, either to the public or its own members, whether the head office is in Saskatchewan or elsewhere, even though the mortgages or other securities belonging to such company, may be taken in the name of some person or corporation other than the company taxable. "Preceding year" means the year ending the thirty-first day of December next before the time when the taxes are payable.

"Registrar" means the registrar of joint stock companies for Saskatchewan. "Trust company" means a corporation authorized:—(1) To act as executor, administrator, trustee, liquidator, receiver, assignee, guardian or committee; or (2) to receive on deposit deeds, wills or other valuable papers or securities for money or jewellery, plate, or other personal property, and to guarantee the safe keeping of the same; or (3) to act as attorney or agent for the transaction of any business or class of business, or the collection of money or the management

of property of any kind; or (4) to act as agent for the purpose of issuing or countersigning certificates of stock, bonds or other obligations of any company or municipal or school corporation, and to receive, invest, and manage any sinking fund therefor; or (5) to guarantee any investment made by it as agent or otherwise.

Banks and Bankers.—Every bank pays the following taxes, namely: Twelve hundred dollars for the head office in Saskatchewan; three hundred dollars for every branch office in a city; one hundred and fifty dollars for every branch office in a town; fifty dollars for every other branch office.²

Private Banker.—Every private banker pays, in addition to all other taxes payable under the Corporation Tax Act, a tax of two hundred dollars when the head office of the business is situated in a city or town, and one hundred dollars when such head office is situated in a village, and an additional tax of twenty-five dollars for each branch or agency in the province.³

“Private banker” means a person or number of persons associated together transacting a general banking business in Saskatchewan, and includes any corporation or joint stock company, other than a chartered bank, wheresoever incorporated, whose business includes receiving money on deposit at interest.

Insurance Companies.—Every insurance company which transacts business in the province under *The Saskatchewan Insurance Act*, or which is registered and licensed under *The Companies Act*, pays a tax of:

² Saskatchewan, 1918-19, ch. 4, sec. 4.

³ Saskatchewan, 1918-19, ch. 4, sec. 5.

- (1) One per cent. calculated on the gross premiums received by the company in respect of the business transacted in Saskatchewan, when such gross premiums are less than fifty thousand dollars;
- (2) One and one-quarter per cent. when the gross premiums received by such company are fifty thousand dollars or more but less than one hundred thousand dollars;
- (3) One and one-half per cent. when the gross premiums received by such company are one hundred thousand dollars or more, but less than one hundred and fifty thousand dollars;
- (4) One and three-quarters per cent. when the gross premiums received by such company are one hundred and fifty thousand dollars or more but less than two hundred thousand dollars; and
- (5) Two per cent. when the gross premiums received by such company are two hundred thousand dollars or more.⁴

The minimum tax to be paid by any such company is one hundred dollars where the authorized capital of the company is one hundred thousand dollars or less, and one hundred and seventy-five dollars where the authorized capital exceeds one hundred thousand dollars. This provision respecting a minimum tax applies to a company during the first year of its incorporation or operation in the province as well as thereafter.⁵

"Insurance company" includes life, fire, ocean, marine, inland transit, accident, plate glass, steam

⁴ Saskatchewan, 1918-19, ch. 4, sec. 6 (1).

⁵ Saskatchewan, 1918-19, ch. 4, sec. 6 (2).

boiler, hail, cyclone, automobile and burglary insurance companies and guarantee companies and companies engaged in any other form of insurance business, wheresoever such companies may be incorporated and whether the head office is situated in Saskatchewan or elsewhere, but does not include mutual insurance companies, except such as transact business on the cash plan, or friendly, fraternal or charitable societies or associations chartered or licensed by the Dominion of Canada or any of the provinces thereof, transacting business in Saskatchewan.

Mutual Companies.—In the case of mutual insurance companies which receive premiums in cash, the tax is calculated on the gross premiums.⁶

Reinsurance.—Where reinsurance has been effected by an insurance company, the company reinsured is exempt from the tax imposed by the Act on the portion of the premium paid to the reinsuring company, but the reinsuring company is liable for the tax in respect thereof as part of its gross premiums.⁷

When the reinsuring company does not transact business in the province under the provisions of *The Saskatchewan Insurance Act* and is not registered and licensed under *The Companies Act*, the company reinsured must retain in its hands so much of the premiums for reinsurance as is equivalent to the tax imposed by the Act in respect of such premiums and is liable for the tax and for the payment to the registrar.⁸

Premiums.—In estimating the amount of the tax payable under the Act by an insurance company, every

⁶ Saskatchewan, 1918-19, ch 4, sec. 7.

⁷ Saskatchewan, 1918-19, ch 4, sec 8 (1).

⁸ Saskatchewan, 1918-19, ch. 4, sec. 9.

premium which is by the terms of the contract of insurance or a renewal thereof or otherwise; (1) payable in Saskatchewan; or (2) paid in Saskatchewan; or (3) payable upon or in respect of a risk undertaken in Saskatchewan; or (4) payable in respect of insurance of a person or property resident or situate in Saskatchewan at the time of payment, whether such premium is earned wholly or partly in Saskatchewan or elsewhere, and whether the business is transacted in respect of such contract, or the payment of such premium is made, wholly or partly within Saskatchewan or elsewhere; is deemed to be a premium in respect of business transacted in Saskatchewan.⁹

Investing Companies.—Where an insurance company which lends or invests money on security in the province has invested in the province more than twenty-five thousand dollars, such company pays an additional tax of forty cents on every thousand dollars invested by the company in the province. The money lent by such company upon the stock funds or Government securities of Saskatchewan or upon municipal or school bonds or debentures or upon the bonds or debentures of any other local or public authority in Saskatchewan is not (for the purpose of this tax) deemed to be money invested in Saskatchewan.¹⁰

Insurance Company's Books.—The chief agent in Saskatchewan under *The Saskatchewan Insurance Act*, of every insurance company whose head office is situate outside Saskatchewan, must keep a book or set of books showing the premiums and all other income of the com-

⁹ Saskatchewan, 1918-19, ch. 4, sec. 9.

¹⁰ Saskatchewan, 1918-19, ch. 4, sec. 10.

pany in respect of business transacted in Saskatchewan; and in default the company incurs a penalty equal to one per cent. of the total gross premiums received by the company during the preceding year. The registrar may in his discretion waive compliance.

Land Companies.—Every land company pays a tax of forty cents for every thousand dollars of business done in the province under the following headings: (1) The total amount paid or agreed to be paid for land; (2) the total amount received from the sale of land; (3) the total amount of revenue received from land otherwise than by sales; (4) the total amount remaining unpaid at the end of the preceding year on sales of land whenever made.¹¹ The minimum tax payable by a land company is prescribed by regulation of the Lieutenant-Governor-in-Council, and it applies to a company during the first year of its incorporation or operation in the province as well as thereafter. A land company taxable under any other provision of this Act (which is not taxable as above) is not required to pay the minimum tax.¹²

Loan Companies.—Every loan company pays a tax of forty cents for each one thousand dollars of the funds which it had under investment in Saskatchewan during the preceding year, irrespective of when the investment was made, with a minimum tax of twenty-five dollars when the authorized capital of the company is less than fifty thousand dollars, and of fifty dollars when the authorized capital is fifty thousand dollars or more, but less than one hundred thousand dollars,

¹¹ Saskatchewan, 1918-19, ch. 4, sec. 12 (1).

¹² Saskatchewan, 1918-19, ch. 4, sec. 12 (3).

and of one hundred dollars when the authorized capital is one hundred thousand dollars or more. This provision as to a minimum tax applies to a company during the first year of its incorporation or operation in the province as well as thereafter. The money lent by such company upon the stock funds or Government securities of Saskatchewan or upon municipal or school bonds or debentures or upon the bonds or debentures of any other local or public authority in Saskatchewan is not deemed to be money invested in Saskatchewan.¹³

Telegraph Companies.—Every telegraph company and every railway company or other company which owns, leases, or operates a line or lines of telegraph and does thereon or carries on in connection therewith a general commercial telegraph business in Saskatchewan, pays a tax of one per cent. of the gross earnings of the company for the preceding year in case such percentage does not exceed the sum of two thousand dollars; but if the said percentage exceeds two thousand dollars, the amount of the tax shall be two thousand dollars.¹⁴ If a company fails to deliver a return, the Provincial Treasurer may, for the purpose of levying the tax, fix the gross earnings of the company at such amount as he deems fair and reasonable, and the amount so fixed is for all purposes of the Act deemed to be the gross earnings of the company for that year.¹⁵

Express Companies.—Every express company pays the following taxes, namely: (1) One hundred and fifty dollars for each city in which the company transacts business; (2) fifty dollars for each town in which the

¹³ Saskatchewan, 1918-19, ch. 4, sec. 13 (2).

¹⁴ Saskatchewan, 1918-19, ch. 4, sec. 14 (1).

¹⁵ Saskatchewan, 1918-19, ch. 4, sec. 14 (2).

company transacts business; (3) ten dollars for each office in any other place with a population of 200 or more in which the company transacts business. The population is determined from the last preceding annual report of the department of municipal affairs.¹⁶

Trust Companies.—Every trust company pays the following taxes, namely: (1) One and one-half per cent. on the gross revenue received by the company from funds of the company used or employed by the company in investments in Saskatchewan; (2) one-half of one per cent. on the gross revenue received by the company from funds used or employed by the company in investments in Saskatchewan on behalf of or as agent or trustee for any individuals, partnerships, syndicates, beneficiaries of the estates of deceased persons or other corporations; irrespective of when the investment was made, and including in such investments: (1) All moneys invested in the purchase of land or interests therein; (2) all unpaid purchase moneys on lands or interests therein which have been sold either for the company itself or for such other company or person, as the case may be; and (3) one and one-half per cent. of the gross revenue received by the company during the year from all sources derived, arising or accruing from business transacted in the province, excepting only the revenue derived from or with respect to or in connection with certain of the investments above referred to; with a minimum tax of \$100 where the authorized capital of the company is \$100,000 or less, and of \$175 where the authorized capital exceeds \$100,000.¹⁷ The provision respecting minimum tax applies

¹⁶ Saskatchewan, 1918-19, ch. 4, sec. 15

¹⁷ Saskatchewan, 1918-19, ch. 4, sec. 16.

to a company during the first year of its incorporation or operation in the province as well as thereafter.

Investments Through Trust Company.—In all cases of investment of moneys belonging to any other company through a trust company: (1) no tax is payable with respect to such investment if the other company has paid a tax; (2) the tax upon the trust company in respect of such investment must not be greater than if the investment had been made directly by such first mentioned company.¹⁸

Mortgages and Securities.—The tax under the Act is payable by every trust company in respect of moneys invested, although the mortgages or other securities therefor may be taken in the name or names of some person or persons or corporation in trust for or on behalf of such trust company.¹⁹ The moneys invested or lent by such company in or upon the stock, funds or Government securities of Saskatchewan, or in or upon municipal or school bonds or debentures or in or upon bonds or debentures of any other local or public authority in Saskatchewan, are not for the above purpose deemed to be money invested in Saskatchewan.²⁰

Companies Not Otherwise Provided for.—Companies not incorporated under the provisions of section 22 of the Companies Act, and any company not exclusively engaged in any of the businesses in respect of which taxes have been imposed by the foregoing provisions, or in farming, ranching, employment, telephone or such other businesses as may from time to time be deter-

¹⁸ Saskatchewan, 1918-19. ch 4 sec 16

¹⁹ Saskatchewan, 1918-19, ch 4, sec. 16 (3).

²⁰ Saskatchewan, 1918-19 ch 4, sec 16 (4).

mined by the Lieutenant-Governor-in-Council, must pay an annual fee to be prescribed by regulation of the Lieutenant-Governor-in-Council, not later than 1st January each year.²¹

Payment of Tax.—The taxes are due and payable on the first day of July in each year, and are based on the returns of the taxable companies for the preceding year. The annual fee on companies not otherwise specially taxed is payable 1st January. When a bank, private banker or express company has not before done business in Saskatchewan and commenced business at any time after the thirtieth day of June in any year, one-half only of the tax for the year as hereinbefore provided is payable. Land, loan and trust companies which become registered at any time after the thirtieth of June in any year are required to pay one-half only of the minimum tax for the year hereinbefore provided.²²

Annual Returns.—Every company must, on or before the first day of May in each year, without any notice or demand to that effect, deliver to the registrar a return setting forth the name of the company and its business, with such further information as the registrar may from time to time require. The return must be verified by the oath of the president and manager, or vice-president and manager, or such other person or persons having personal knowledge of the affairs of the company as the registrar may require and may be in such form as is applicable to the particular company making the return or in such other form as the registrar

²¹ Saskatchewan, 1918-19, ch. 4, sec. 18.

²² Saskatchewan, 1918-19, ch. 4, sec. 19.

may from time to time deem necessary for effectively carrying into force the provisions of the Act. The registrar may enlarge the time for making any such return.²³

Statement by Insurance Companies.—Every insurance company making the return must, in addition to the other particulars, state therein the gross premiums received during the preceding year by the company in respect of or on account of business transacted wholly or in part in Saskatchewan or of policies issued to or held by persons residing in Saskatchewan, whether such premiums were so received by the company within the province or were received by the company elsewhere in respect of such Saskatchewan business.²⁴

Investigations and Further Returns.—If the registrar so desires for the purpose of enabling him to determine the correctness of any return made under the provisions of the Act or for the purpose of obtaining further information thereon, he may require the president, manager, secretary or agent of the company to furnish a further statement under oath within thirty days. In case such statement is not furnished within the time limited, or in case the registrar is not satisfied therewith, the Lieutenant-Governor-in-Council may direct an inquiry to be made by one or more commissioners appointed under an *Act Respecting Inquiries Concerning Public Matters*, and the determination of such commission, after giving the parties an opportunity to be heard, is final as to the particulars mentioned in its report. The Lieutenant-Governor-in-Council may for

²³ Saskatchewan, 1918-19, ch. 4, sec. 20.

²⁴ Saskatchewan, 1918-19, ch. 4, sec. 21.

cause vary the said report; but the amount found must not be increased without first giving the company or its agents an opportunity of being heard. The registrar may, if he deems that the matter can be conveniently dealt with otherwise than by reference to the Lieutenant-Governor-in-Council, appoint an inspector to make the inquiry into and concerning the correctness of any return or to obtain the required information, and such inspector reports thereon to the registrar. It is the duty of all officers and agents of the company to produce to the inspector all books and documents in their custody or power relating to the company, or to the matters to be investigated. An inspector may examine on oath the officers and agents of the company in relation to its business, and administer an oath accordingly. He has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents as is vested in a court or record in civil cases. If an officer or agent refuses to produce any book or document which it is his duty to produce, or to answer any question relating to the affairs of the company, he is liable, on summary conviction, to a fine not exceeding \$50 for each offence.²⁵ If the inquiry is occasioned by failure to furnish the information required by the registrar, the company pays the costs of the inquiry; but, if the statement is found to be correct and the required information was duly furnished, the registrar may direct the costs, or such of them as were necessary, to be paid by the province, and he may for this purpose settle the same or may direct a taxation. In case the commission

²⁵ Saskatchewan, 1918-19, ch. 4, sec. 24.

or inspector finds that the statement filed understates the amount on which the tax should be paid, the company besides paying the costs of the inquiry must pay as a tax the sum found to be payable under the report of the commission or inspector with fifty per cent. added to the entire tax. The costs of the commission or inquiry is determined and certified by the registrar, or he may direct the same to be taxed, and when payable to the Crown the same may be recovered in the manner herein provided for the recovery of taxes. If the registrar directs the costs to be taxed the same are taxed by the registrar of the Court of King's Bench. When the commission or inspector has found that the statement understates the amount on which the tax should be paid, but also certifies that such misstatement was not made with intent and for the purpose of decreasing the amount of taxes to be paid, but was made in good faith and with no improper motive, the Lieutenant-Governor-in-Council may, upon the recommendation of the registrar, remit so much of the added percentage and of the costs as to him may seem just.²⁶

Default of Payment of Taxes.—In case of default of payment of taxes, the same may be levied with costs by distress upon the goods and chattels wherever found of the company liable therefor, under a warrant signed by the registrar directed to the sheriff of the judicial district in which the company in arrear may have any goods or chattels, and in such case the sheriff realizes the amount of the taxes in arrear and all costs by sale of such goods and chattels, or so much thereof as may be necessary to satisfy the said warrant and costs.¹

²⁶ Saskatchewan, 1918-19, ch. 4, secs. 22-26

¹ Saskatchewan, 1918-19, ch. 4, sec. 27.

Default in Making Return.—Where there is default in making a return within the prescribed time or in furnishing the registrar with any further or other information required after making such return, the company and the person or persons by whom the return should be verified, each incur a penalty of \$20 for every day during which the default continues, and the company is also liable to pay a tax of double the amount imposed.⁶

Striking Name off Register.—Should the registrar not receive the tax or the return or a further statement, where such is required, within the prescribed time, he sends to the head office of the company in default, a registered letter notifying it of its neglect, and, if possible, of its liability. At the expiration of a period of one month from the mailing of such notice, if the tax still remains unpaid or the return or further statement has not been furnished, as the case may be, the registrar, without further notice, causes the name of the company to be struck off the register and gives notice of the fact by publication in *The Saskatchewan Gazette*. The company is nevertheless subject to the penalty and double tax.³ Where a company has made a return or furnished any further or other information required, after making such return, and it is found by a commission or inspector that the return or the statements made by the company are grossly inaccurate and that amount upon which the tax should be paid has been understated, the registrar may, in addition to enforcing the penalties hereinbefore provided, and without further notice, cause

² Saskatchewan, 191-19, ch. 4, sec. 28.

³ Saskatchewan, 1918-19, ch. 4, sec. 29.

the name of the company to be struck off the register and give notice thereof by publication in *The Saskatchewan Gazette*⁴. If a company or any member or creditor feels aggrieved by the name of such company having been struck off the register, such company, member or creditor can apply to a judge of the Court of King's Bench, and the judge, if satisfied that it is just and proper so to do, can order the name of the company to be restored to the register upon payment of all fees or taxes then due. In that event the registrar forthwith publishes in *The Saskatchewan Gazette* a notice that the name of the company has been restored to the register, and thereupon the company is deemed to have continued in existence as if the name of the company had never been struck off.⁵

Recovery of Taxes by Action.—The registrar is not bound to proceed by way of distress for the recovery of any tax in arrears, but any taxes imposed or any penalty or both may, at the option of the registrar, be recovered with costs in any court of competent jurisdiction in an action to be brought in the name of the registrar. The action is tried by a judge without a jury.⁶

Tax a Lien on Assets.—In case of the liquidation or insolvency of a company upon which a tax is imposed, the amount unpaid is a first lien and charge upon the estate of the company, subject to the provisions of any statute of Canada and to the costs and charges of liquidation or insolvency proceedings.⁷

⁴ Saskatchewan, 1918-19, ch. 4, sec. 30.

⁵ Saskatchewan, 1918-19, ch. 4, sec. 31.

⁶ Saskatchewan, 1918-19, ch. 4, sec. 32.

⁷ Saskatchewan, 1918-19, ch. 4, sec. 33.

Actions and Prosecutions.—In any action brought by the registrar it is sufficient if the action is brought by “the registrar of joint stock companies of the Province of Saskatchewan” as plaintiff, without personally naming him, and the action does not abate by reason of a change in the person of the registrar, but may proceed as if no change had been made.⁸

Municipal Taxes.—Where a company pays the corporation tax no similar tax can be imposed or collected by any municipality in this province, and no company is liable to taxation nor are any of its agents required to take out any license, authorization or permit of any municipality for doing business in the municipality or for establishing agencies therein.⁹

III. Manitoba.

Act.—The taxation of corporations in Manitoba is regulated by the Corporations Taxation Act, R.S.M., 1913, ch. 191, as amended. There have been several recent amendments to this Act in 1919 and 1920, and these changes have been noted below.¹

Definitions.—There are several terms used in connection with corporation tax law which have a special meaning. “Bank” includes any corporation or joint stock company wheresoever incorporated for the purpose of doing a banking business, whether the head office is situated in Manitoba or elsewhere, and which transacts a banking business in Manitoba, and includes

⁸ Saskatchewan, 1918-19, ch. 4, sec. 34

⁹ Saskatchewan, 1918-19, ch. 4, sec. 35.

¹ The Corporations Taxation Amendment Acts, ch. 17, 1920, and ch. 18, 1919.

a savings bank. "Private bank" means any person, or any number of persons associated together, transacting and doing a general banking business in Manitoba. "Insurance company" embraces and includes life, fire, ocean marine, inland transit, accident, plate glass, steam boiler and burglary insurance companies, and every guarantee company, wheresoever such companies may be incorporated, whether the head office is situated in Manitoba or elsewhere, and which transacts business in Manitoba, but does not include mutual fire or hail insurance companies (unless where any mutual fire or hail insurance company transacts business on the cash plan), or friendly, fraternal or charitable societies or associations, chartered or licensed by the Dominion of Canada or any of the provinces thereof, transacting insurance in Manitoba. "Loan company" embraces and includes every investment company, mortgage company, loan company and loaning land company, and also every corporation, incorporated company and association wheresoever incorporated, not being a bank, whose business or one of whose businesses is to lend money at interest on the security of real estate, or any interest therein, either to the public or its own members, whether the head office is in Manitoba or elsewhere, and which carries on any such business in Manitoba, even though the mortgages or other securities belonging to such company, corporation or association may be taken in the name or names of some person or persons or corporation other than the company or corporation or association taxable. "Land company" embraces and includes every corporation, incorporated company and association, wheresoever incorporated,

empowered under its charter, Act of incorporation or articles of association to buy and sell land or other real properties in Manitoba, which has, during or at any time within the year for which the tax is being collected, bought or sold lands, held lands for sale or had, at the end of the calendar year preceding taxation under this Act, among its assets any money remaining unpaid on any sale of such lands, no matter where made, and including any such investment or invested moneys owned by the company, corporation or association, which may be taken in the name or names of some person or persons or corporation other than the company, corporation or association taxable. "Company" embraces and includes every corporation, incorporated company and association to which the Act refers and which transacts, or which during the year in respect of which the tax is payable has transacted business in Manitoba, whether now or hereafter incorporated by or under any statute or Act of a Parliament or of a Legislature, or by letters patent or otherwise howsoever, within the territories and dominions of the Crown, or within any foreign country and wheresoever organized and incorporated and wherever the head office is situated or wheresoever the board of management or executive officers transact the business of the company, and also applies to all similar companies, associations or corporations which may be hereafter incorporated for such purposes as aforesaid and which shall do or transact business in Manitoba, and where any such corporation, company or association shall be placed in the hands or control of agents, assignees, trustees, liquidators or receivers or other

officers, then to such agents, assignees, trustees, liquidators or receivers, or other officers. It further includes an individual, a partnership, syndicate or trust, where the class or kind of business to which this Act applies is conducted or carried on in Manitoba by such individual, partnership, syndicate or trust, whether the head office or chief place of business of such individual, partnership, syndicate or trust is in Manitoba or elsewhere, but the word individual does not apply to an individual merely because of his lending money. "Head office" in the case of a company whose organization and chief executive offices are within Manitoba, means the place where the chief executive officers of the corporation transact its business within the Province. In the case of a company whose organization and chief executive officers are without Manitoba, head office means the office within Manitoba which is designated by the company, and of which notice is given to the Provincial Treasurer; and where no such notice is given the head office is that office or place of business of the company designated as the head office by an order of the Lieutenant-Governor-in-Council on the recommendation of the Provincial Treasurer. In the case of a bank whose organization and chief executive officers are without Manitoba, head office means the office within Manitoba which is designated by the chief executive officers thereof, notice of which is given to the Provincial Treasurer, and where no such notice is given the head office is designated by the Lieutenant-Governor-in-Council as in the case of companies. "Treasurer" means the Provincial Treasurer of Manitoba. "Gross revenue," "Gross income," or "Gross

earnings" means and includes the actual gross revenue, gross income or gross earnings, without any deductions whatsoever, earned, derived, accrued or received for the use of any company from any source whatsoever, the product of capital, labor, industry or skill of each and every company or corporation in this Province, which may arise from business transacted in the Province. "Premium" includes the first premium payable upon the policy of insurance and the annual or other premiums payable thereon thereafter, and whether for renewals or otherwise. "Preceding year" or "year preceding" means the year ending the thirty-first day of December next before the time when the taxes hereby imposed are payable. The taxes are levied upon capital stock as the same stood on the said thirty-first day of December, and the statements required must give the information as of that date. "Underwriters' agency, company or corporation" embraces and includes any individual, partnership, company or association which issues policies of insurance for or on behalf of a principal or guaranteeing or managing insurance company. "Gross premiums" means and includes the total amount of premiums received, including all premiums received for re-insurance, and after deducting only those sums, if any, which have been repaid as returned premiums by reason of the cancellation of any of such company's policies, and also after deducting those sums which have been paid to other companies for re-insurance. "Special broker" embraces and includes every person, partnership, syndicate, trust company, corporation or association who or which procures for another or others a policy or

policies of insurance from persons, corporations, partnerships, underwrites, or associations who or which are not registered, licensed or authorized to carry on business in the Province of Manitoba. "Broker" embraces and includes every partnership, syndicate, corporation or association which negotiates purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, produce or merchandise for others, and manufacturers' agents, after having carried on business as such for two years.² "Custom house broker" embraces and includes every person, partnership, syndicate, corporation or association who as the agent of others arranges entries and other custom house papers, or transacts business at any port of entry relating to the importation or exportation of goods, wares or merchandise.³ "Ship broker" embraces and includes every person, partnership, syndicate, corporation or association who negotiates passenger service or freights or any other business for the owners of vessels, or for the shippers, or consignors or consignees of freight to be carried by vessels.⁴ "Pawn broker" embraces and includes every person, partnership, syndicate, corporation or association who takes or receives by way of pledge, pawn or exchange any goods, wares or merchandise or any kind of personal property whatever as security for the payment of money loaned thereon.⁵

Taxation.—The corporation tax is imposed for the purpose of supplementing the revenues of the Crown

² Manitoba, 1920, ch. 17, sec. 2.

³ Manitoba, 1920, ch. 17, sec. 2.

⁴ Manitoba, 1920, ch. 17, sec. 2.

⁵ Manitoba, 1920, ch. 17, sec. 2.

in the Province. It is imposed upon every company of any of the classes of companies above defined or referred to below, which transacts business in Manitoba under its name or otherwise or through an agent or agents. The tax is an annual one.

Banks.—Every head office of a bank pays annually a tax of twenty-four hundred dollars, and every branch office or agency in the city or town in which the head office is situated pays a tax of one hundred dollars annually.⁶ Excepting the branch offices or agencies above provided for, every bank annually pays a tax of three hundred dollars for each branch office or agency up to and not exceeding four in number; all branches or agencies over and above four in number, and up to and including ten branches or agencies in excess of the fourth, pay a tax of two hundred dollars on each such branch or agency in excess of the fourth, and all other branches or agencies over and above the fourteenth pay a tax of one hundred dollars each.⁷ Every private bank (other than private banks in village centres in rural municipalities possessing a population not exceeding five hundred inhabitants) pays a tax of three hundred dollars; in village centres as aforesaid private banks pay a tax of one hundred and fifty dollars; all such banks pay an additional tax of fifty dollars for each branch office or agency in the Province, but no such latter tax is levied upon more than one office, branch or agency in any one city, town, village or village centre.

⁶ Manitoba, 1919, ch. 18, sec. 1.

⁷ Manitoba, 1919, ch. 18, sec. 1

Insurance Companies.—Every insurance company which transacts such business in the province annually pays a tax of two per cent., calculated on the gross premiums received by such company in respect of the business transacted in the province during the preceding year, but, in the case of mutual fire and hail insurance companies which receive premiums in cash, the tax is calculated upon the gross premiums received by such companies in cash in respect of the insurance transacted on the cash plan in the province during the preceding year. Every company licensed or registered under the Manitoba Insurance Act and assessed under its provisions is credited with all payments thereunder in reduction of the tax payable as corporation tax.⁸ In the case of reinsurance by an insurance company, the principal company is exempt from the tax imposed by the Act on the portion of the premium paid to the reinsuring company, but the company receiving the premium for reinsurance is nevertheless liable for the tax in respect thereof as part of its gross premiums.⁹ Where the reinsuring company does not conduct business in Manitoba or has no principal or head office therein, the principal company must retain in its hands so much of the said premium as will be equivalent to the tax imposed on or in respect of such premium, and is liable for the tax and for the payment thereof to the Treasurer¹⁰

Loan Companies.—Every loan company which transacts business in Manitoba pays a tax of three-quarters

⁸ Manitoba, 1919, ch. 18, sec. 1.

⁹ Manitoba, 1919, ch. 18, sec. 1.

¹⁰ Manitoba, 1919, ch. 18, sec. 1

of one per cent. on the gross income of the company received during the year from its investments in the province, of whatever nature, including in such gross income any bonuses received for allowing prepayment of loans and revenues of any other nature from such investments, including interest received on all bank accounts; with a minimum tax of twenty-five dollars when the paid-up capital of the company is less than fifty thousand dollars, and fifty dollars when the paid-up capital is fifty thousand dollars or more but less than one hundred thousand dollars, and one hundred dollars when the paid-up capital is one hundred thousand dollars or more.¹¹ The minimum tax applies to a company during the first year of doing business in the province as well as thereafter.¹² Notwithstanding any provision in The Manitoba Farm Loan Act, the Manitoba farm loan associations are liable to this tax.¹³

Land Companies.—Every land company which transacts business in Manitoba pays a tax of forty cents for every thousand dollars of money invested in the province, including as such the total purchase price of any lands or other real or personal property acquired and as increased by any increased value given to said lands in the last balance sheet of the company, and also including money remaining unpaid at the end of the preceding calendar year on any sales of such land, no matter when made, with a minimum tax of twenty-five dollars when the paid-up capital of the company is less than fifty thousand dollars, fifty dollars when the paid-up capital of the company is fifty thousand dollars or

¹¹ Manitoba, R.S.M. 191, sec. 3 (e).

¹² Manitoba, R.S.M. 1913, ch. 191, sec. 3 (e).

¹³ Manitoba, 1919, ch. 18, sec. 3.

more, but less than one hundred thousand dollars, and one hundred dollars when the paid-up capital is one hundred thousand dollars or more.¹⁴ The minimum tax applies to the company during the first year of doing business in the province as well as thereafter.¹⁵

Trust Companies.—Every trust company which transacts business in Manitoba annually pays a tax of two per cent. on the gross revenue received by the company during the year from all sources derived, arising or accrued from business transacted in this province, with a minimum tax of one hundred dollars where the paid-up capital of the company is one hundred thousand dollars or less, and one hundred and seventy-five dollars if the paid-up capital exceeds one hundred thousand dollars.¹⁶ The minimum tax applies to a company during the first year of doing business in the province as well as thereafter.¹⁷ In addition, trust companies are liable to pay a tax calculated at one per cent. of the gross earnings produced by all moneys invested on behalf of or in trust for other companies or corporations, unless such other companies or corporations have paid taxes to the Government upon such investments, provided that in the case of every trust company which does not carry on within the province a general and unrestricted business, but is empowered only to engage in special transactions, the Lieutenant-Governor-in-Council may modify or alter the rate of minimum of taxation hereinbefore imposed and may in lieu thereof fix and impose such less rate or amount as

¹⁴ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (f)

¹⁵ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (f).

¹⁶ Manitoba, 1919, ch. 18, sec. 1.

¹⁷ Manitoba, 1919, ch. 18, sec. 1.

the Lieutenant-Governor-in-Council may deem proper.¹⁸

Electric Street Railways.—Every street railway company in Manitoba, and every person or corporation other than a municipality working or operating a railway or part thereof, entirely or partly by electricity, in the Province of Manitoba, for carrying passengers pays a tax of: \$30 per mile, if the mileage does not exceed 15 miles; \$40 per mile, if the mileage exceeds 15 miles but does not exceed 30 miles; \$50 per mile, if the mileage exceeds 30 miles but does not exceed 50 miles; \$60 per mile, if the mileage exceeds 50 miles. In all cases the mileage is computed on the single track, each mile of double track being counted as two miles of single track. Switches or sidings, tracks into car sheds, Y's and portions of track not in general use are excluded from the computation of mileage.¹⁹

Telegraph Companies.—Every telegraph company at present owning or operating or which may hereafter own or operate, any telegraph line or lines within or partly within the province, annually pays to the Crown in the province such proportion of the gross earnings of the said telegraph company in the province as is determined by the Lieutenant-Governor-in-Council, not to exceed two per cent. thereof.²⁰ Every railway or other company, other than a telegraph company, which owns or operates a line or lines or part of a line or lines of telegraph operated in the province pays a tax of two thousand dollars.²¹ The Lieutenant-Governor-in-Coun-

¹⁸ Manitoba, 1919, ch. 18, sec. 1.

¹⁹ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (h).

²⁰ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (i).

²¹ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (j).

cil has power to remit the whole or any part of the tax upon it being satisfactorily established in the opinion of the said Lieutenant-Governor-in-Council that the lines of telegraph are used for the purpose of running trains or other railway purposes and not for commercial purposes.²²

Telephone Companies.—Every telephone company at present owning or operating or which may hereafter own or operate, any telephone line or lines, system or systems within or partly within the province annually pays to the Crown in the province such proportion of the gross earnings of the said company in the province as may be determined by the Lieutenant-Governor-in-Council, not exceeding two per cent. of such gross earnings.²³

Gas Companies.—Every company in any city in the province supplying gas for illuminating or other purposes for gain, pays a tax of five hundred dollars.²⁴

Electric Lighting Companies.—Electric lighting companies in the province, supplying electricity for illuminating or other purposes for gain, severally pay the following tax, that is to say, in cities and towns where the population is:—

Under 3,000	\$ 25
3,000 and under 10,000.....	50
10,000 and under 25,000.....	100
25,000 and under 50,000.....	200
50,000 and under 75,000.....	300
75,000 and under 125,000.....	500

²² Manitoba, R.S.M. 1913, ch. 191, sec. 3 (j).

²³ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (k).

²⁴ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (l).

and one hundred dollars additional for each additional fifty thousand of population.²⁵

Express Companies.—Every express company doing or being concerned in an express business in Manitoba, pursuant to any traffic arrangement or agreement with a railway express or other company, annually pays the following tax: (1) \$45 for each incorporated town in which such an express company has an office, branch or agency or offices, branches and agencies; (2) \$160 for each incorporated city, other than the City of Winnipeg, in which such an express company has an office, branch or agency, or offices, branches or agencies; (3) in the City of Winnipeg—(a) \$750 for the first or chief office of such an express company; (b) \$100 for each of the second and third offices.²⁶

Underwriters' Business. — Every underwriter's agency, company or corporation which transacts business in the Province of Manitoba is liable to tax like an insurance company, upon the gross premiums which has arisen or been received from business transacted in the province by such agency, company or corporation, for or on behalf of a guaranteeing or principal company, provided that such guaranteeing or principal company has not already paid the taxes to the Government upon such gross premiums.¹

Special Brokers.—Every special broker pays to the Provincial Treasurer a sum equal to two per cent. upon the amount of gross premiums charged to policyholders upon all policies procured by him.²

²⁵ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (m).

²⁶ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (n); 1919, ch. 18, sec. 3.

¹ Manitoba, R.S.M. 1913, ch. 191, sec. 3 (o).

² Manitoba, R.S.M. 1913, ch. 191, sec. 3 (p); 1920, ch. 17, sec. 3.

Other Brokers.—Every broker pays an annual tax of \$100.³ Every custom house broker pays an annual tax of \$25.⁴ Every ship broker pays an annual tax of \$100.⁵ Every pawnbroker pays an annual tax of \$100.⁶

Payment of Tax.—The taxes are due and payable on the first day of April in each and every year. In the case of companies the taxes are based on the returns of such companies for the year preceding the date of payment. When a company has not before done business in the province and commences such business at any time after the thirtieth day of June in any fiscal year, it is only required to pay one-half of the tax for the year.⁷ All premiums payable to any insurance company on or in respect of any policy or renewals thereof are deemed to be payable within the province to any and every insurance company doing business in the province, and the taxes are payable by the company upon all such premiums whether they are paid or made payable in the province or elsewhere than in the province and whether such premiums are wholly earned or partly earned in Manitoba, and whether the policies are issued to or held by persons who resided at the time of the issue of the policy or who afterwards reside in Manitoba, and whether the business in relation to such policies is or was transacted in whole or in part within Manitoba or elsewhere.⁸

³ Manitoba, 1920, ch. 17, sec. 4.

⁴ Manitoba, 1920, ch. 17, sec. 4.

⁵ Manitoba, 1920, ch. 17, sec. 4.

⁶ Manitoba, 1920, ch. 17, sec. 4.

⁷ Manitoba, R.S.M. 1913, ch. 191, sec. 4.

⁸ Manitoba, R.S.M. 1913 ch. 191, sec. 5

Distress.—In case of default in payment of taxes, the same may be levied and collected with costs by distress upon the goods and chattels, wherever found, of the company liable therefor under a warrant signed by the Treasurer directed to the sheriff of the judicial district in which the company in arrear may have any goods or chattels, and in such case the sheriff realizes the said taxes or so much thereof as may be in arrear and all costs by sale of such goods or chattels or so much thereof as may be necessary to satisfy the said warrant and costs, or the taxes or the penalty and double tax hereinafter provided; or both, may, at the option of the Treasurer, be sued for and recovered with costs in any court of competent jurisdiction in an action to be brought in the name of the Treasurer, and the action or suit is tried by a judge without a jury.⁹

Lien.—In case of liquidation or insolvency of any company, the amount unpaid of such tax is a first lien or preference upon the estate of such company, subject to the provisions of any statute in Canada and to the cost and charges of liquidation or insolvency proceedings.¹⁰

Returns.—On or before the first day of April in each and every year every company on which a tax is by the Act imposed, and which is doing business in Manitoba, must, without any notice or demand to that effect, deliver to the Provincial Treasurer a detailed statement, verified by the oath or affirmation of the president and manager, or vice-president and manager, or such other person or persons connected with the com-

⁹ Manitoba, R S M. 1913, ch 191, sec 6.

¹⁰ Manitoba, R S M 1913, ch. 191, sec. 7

pany having personal knowledge of the affairs of the company as the Treasurer may require, sworn to or affirmed before a commissioner for taking affidavits or a notary public, showing such of the following information as shall be necessary to enable the Treasurer to determine the tax payable by the company so making the statement—the name of the company; the nature of the company, whether a person, partnership, joint stock association or corporation, and, if a joint stock association or corporation, under the laws of what province organized; the location of its principal office; the names and postoffice addresses of the president, secretary, treasurer and general manager; the name and postoffice address of the chief office or manager, in this province; the number of shares of its capital stock, the number issued and the amount paid thereon; the par value and the market value or, if there be no market value, the actual value of its shares of stock; the amount of the bond or debenture debt of the company and the value thereof; the amount of dividends, if any, paid upon each share of its stock during the twelve months immediately preceding the first day of January; a detailed statement of the real estate owned by it situate within the province, where situate, and the value thereof; the total value of the real estate without this province; the total value of the personal property owned by the company (i) situate within this province; (ii) situate outside this province; a statement showing the gross receipts and earnings of the company during the twelve months immediately preceding the first day of January, arising (i) from business done wholly within this province; (ii) from business done partly

within and partly without this province; (iii) from business done wholly outside this province; in the case of a land company, the amount of the unpaid purchase price of land sold by it; in the case of a bank, the number of offices or agencies thereof in this province; in the case of a street or other railway operated by electricity, the number of miles in operation within the province during the preceding calendar year; in the case of all companies, such further information as may be required by the Treasurer to enable him to determine the tax payable by the company or corporation making such statement.¹¹

Examination Into Companies' Business.—If the Treasurer has reason to believe that any company or individual doing business in this province is liable to taxation under the Act, whether so liable or not, he may cause a demand to be made upon such company or individual calling on it or him forthwith to make a return or report to him in any such form as he may require, and he may appoint one or more competent inspectors for the purpose of examination into the affairs of any private individual, corporation, association or company so far as such affairs relate to the taxable business carried on by such private individual, corporation, association or company.¹² It is the duty of every individual, and the officers or employees or agents of such corporation, association or company, to produce for inspection all books, letters or documents relating to such taxable business, and the inspector may examine on oath any individual, officer or em-

¹¹ Manitoba, R.S.M. 1913, ch. 191, sec. 8

¹² Manitoba, R.S.M. 1913, ch. 191, sec. 9 (1).

ployee or agent, and may administer such oath accordingly. If any individual, officer, employee or agent refuses to produce any books, letters, documents, or to answer any questions relating to the affairs under inspection, or examination, he is, on summary conviction before a police magistrate or a justice of the peace, liable to a penalty of not less than fifty dollars, and not more than two hundred dollars in respect of each offence, and, in default of payment, to imprisonment for a period not exceeding six months.¹³ Where no local information can be obtained as to the amount of insurance carried by any private individual, corporation, association, or company, the Provincial Treasurer may rate an amount of insurance to be taxed, and such rating has the same force and effect as if it were given in a return under oath.¹⁴

Suspending Corporations.—Every company which and the president, manager, secretary-treasurer and directors, or agent in the province, who neglects to conform to any of the provisions of the Act are each liable to a penalty of twenty dollars per day for each day during which default is made. The company is also liable to pay a tax of double the amount for which it would have been liable. Any penalty or such double tax may be recovered in any court of competent jurisdiction in an action brought in the name of the Treasurer, to be tried by a judge without a jury, and the Treasurer may suspend the company's charter or letters patent of incorporation, or license, but any such suspension does not affect the liability of the company

¹³ Manitoba, R.S.M. 1913, ch. 191, sec. 9 (2).

¹⁴ Manitoba, 1916, ch. 110, sec. 5.

or its officers or its shareholders for any debts or liabilities of the company.¹⁵ When a company under such suspension has satisfactorily complied with all the provisions of the Act, the Lieutenant-Governor-in-Council may withdraw such suspension and thereby revive the charter or letters patent of incorporation or license of the company and restore the company to its legal position as at the time of such suspension, in the same manner and to the same extent as if there had been no such suspension, and the same is thereby revived and restored accordingly.¹⁶ In any such action the Treasurer has the right either before or after the trial to require the production of documents, to examine parties or witnesses or to take such other proceedings in aid of the action as a plaintiff has or may take in an ordinary action.¹⁷

Arrears of Taxes.—Whenever any corporation tax remains unpaid for one month after its due date, a statement, over the signature of the Treasurer, certifying the amount of taxes owing, and the name of the corporation owing same, may be recorded, without the payment of any fee, in any and all the registry offices or land titles offices of this province, and from the time of recording the same the said statement binds and forms a lien and charge for the amount so certified on all the lands of the corporation in the several registration and land titles districts where such statement is recorded, the same as though charged in writing by an owner of land, under his hand and seal, and after the

¹⁵ Manitoba, R.S.M. 1913, ch. 191, sec. 10.

¹⁶ Manitoba, 1920, ch. 17, sec. 5.

¹⁷ Manitoba, 1915, ch. 82, sec. 5.

recording of such statement the Treasurer may, if he elects to do so, proceed in court to realize upon the lien and charge thereby created. The registration of such statement, however, has the same effect as the registration of a certificate of judgment. The lien or charge remains in force until discharged by the registration in the same office of a discharge executed by the Treasurer.¹⁸

Extending Time for Returns.—The Treasurer may, at his discretion and for good cause, enlarge the time for making any return and for making payment of the tax.¹⁹

Insurance Companies' Returns.—Every insurance company making a return must, in addition to the other particulars, state in the return the gross premiums received during the preceding year by the company in respect or on account of business wholly or in part or of policies issued to or held by persons residing in the province, whether such premiums were so received by the company within the province or were received by the company elsewhere in respect of such Manitoba business.

Inquiries.—If the Treasurer desires, in order to enable him to determine the correctness of any return made under the provisions of the Act, or desires further information thereon, he may require the president, manager, secretary or agent of the company to furnish a further statement under oath within thirty days. If the required information is not furnished within the time limited, or in case the Treasurer is not satisfied,

¹⁸ Manitoba, 1915, ch. 82, sec. 6.

¹⁹ Manitoba, 1915, ch. 82, sec. 7.

the Lieutenant-Governor-in-Council may direct an inquiry to be made by a commissioner or commissioners, appointed under "An Act respecting Commissioners to make Inquiries concerning Public Matters," and the determination of such commissioner or commissioners, after giving the parties an opportunity to be heard, is, for the purposes of the Act, final as to the particulars mentioned in their report. The Lieutenant-Governor-in-Council may for cause vary the said report, but the amount found by the commissioner or commissioners will not be increased without giving the company or its agents an opportunity of being first heard. If the inquiry is occasioned by failure to furnish the information required by the Treasurer, the company pays the costs of the inquiry, but if the statement is found to be correct and the required information was duly furnished the Treasurer may direct the costs or such of them as was necessary to be paid by the province, and he may for this purpose settle the same or may direct a taxation thereof. If the commissioner or commissioners finds that the statement filed understates the amount on which the tax should be paid, the company, besides paying the costs of the inquiry, pays as a tax such sum as is found payable under the report of the commissioner or commissioners with fifty per cent. added to the entire tax as the same would have been computed unless the Lieutenant-Governor-in-Council otherwise orders. The costs of the commission are determined and certified by the Treasurer, or he may direct the same to be taxed, and when payable to the Crown the same may be recovered in the manner herein provided for the recovery of taxes. If the Treasurer directs the

costs to be taxed, the same are taxed by the prothonotary of the Court of King's Bench at Winnipeg. When the commissioner or commissioners find that the statement filed understates the amount on which the tax should be paid, but also certify that such misstatement was not made with intent and for the purpose of decreasing the amount of taxes to be paid, but was made bona fide and with no improper motive, the Lieutenant-Governor-in-Council may, upon the recommendation of the Treasurer, remit so much of the added percentage and so much of the costs as to him, in his discretion, may seem meet to do justice in the premises. If any company neglects or refuses to make the return within the time prescribed by the Act or to furnish to the Treasurer any further or other information required after making such return or, having made such return and furnished such further or other information, it is found by the commissioner or commissioners that the return or the statements made by the company are glaringly inaccurate and that the amount upon which the tax should be paid has been wilfully understated, the Treasurer of the province may, in addition to subjecting the company to the above penalties, order the cancellation of the license, certificate of registration or letters patent of incorporation under which such company transacts and carries on business in this province, whereupon such license, certificate of registration or letters patent becomes absolutely revoked and rendered null and void to all intents and purposes whatsoever.²⁰

Actions, Suits and Proceedings.—In any action brought by the Treasurer under this Act it is sufficient

²⁰ Manitoba, R S M 1913, ch. 191, secs 13-17.

if the action is brought by "the Treasurer of the Province of Manitoba" as plaintiff, and it is not necessary to name the Treasurer. The action does not abate by reason of a change in the person of Treasurer, but the action proceeds as if no change had been made.

Municipal Corporation Tax.—Where a company pays the tax imposed, no similar tax can be imposed or collected by any municipality in this province, and no company made liable to taxation by the Corporation Tax Act, nor any of its agents, require any license, authorization or permit of any municipality for doing business in the municipality or for establishing agencies therein.²¹

Adding Tax to Loans and Mortgages.—It is unlawful for any loan or other company, taxed under the Act, to demand or collect from a borrower or mortgagor, either directly or indirectly, any sum of money or charge under claim of right, to add same to the mortgage or other debt by way of contribution towards making up the amount of the tax for which the company is liable under the Act, and any such sums of money paid to any such company, may be recovered from the company by an action at the suit of the person who has paid the same in any court of competent jurisdiction.

Auditing Companies' Books.—If at any time it appears to the Treasurer that the books of any company doing business in this Province (whether such company is liable to taxation under the Act or not) are not kept in such a businesslike manner as to enable a

²¹ Manitoba, R.S.M. 1913, ch. 191, sec. 19.

proper statement of the affairs and standing of the company to be obtained, or are not kept in such a businesslike manner as to enable the correctness of any return made under the Act to be determined, the Treasurer is empowered to nominate a competent accountant to proceed under his direction to make an audit of the accounts of the company, and to give such instructions as will enable the books of the company to be properly kept thereafter. The remuneration of the accountant is paid by the company of whose accounts an audit has been made. It does not exceed ten dollars per day and necessary travelling expenses. The Treasurer certifies to the said account for the fees and expenses, and it is thereupon payable forthwith to the said accountant by the company of whose accounts an audit has been made.²²

Lien for Tax.—Every tax and penalty imposed under the Corporation Tax Act is a special lien and charge on all the properties and securities in Manitoba of the company liable to pay same.²³

DAIRY INDUSTRY.

I. Canada.

Generally.—The dairy industry in Canada is regulated by both Provincial and Dominion law. The Dominion law deals more particularly with the industry as a whole, and to the export and import trade.¹ The Provincial law deals principally with local conditions. It will be found that some Provinces have more strin-

²² Manitoba, 1915, ch. 82, sec. 9.

²³ Manitoba, 1919, ch. 18, sec. 5.

¹ Canada. The Dairy Industry Act, 1914.

gent laws than others. This depends largely on the extent and character of the industry.

Milk.—No person can sell, supply or send to any cheese or butter or condensed milk or milk powder or casein manufactory, or to a milk or cream shipping station, or to a milk bottling establishment or other premises where milk or cream is collected for sale or shipment, or to the owner or manager thereof, or to any maker of butter, cheese, condensed milk or milk powder or casein to be manufactured: (1) Milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as skim milk, or any milk to which has been added any cream or foreign fat or any colouring matter, preservative or other chemical substance of any kind; (2) Milk from which any portion of that part of the milk known as strippings has been retained; (3) Any milk taken or drawn from a cow that he knows to be diseased at the time the milk is so taken or drawn from her.

Butter.—No person can import into Canada, or offer, sell or have in his possession for sale: (1) Any butter containing over sixteen per centum of water; or (2) any process or renovated butter, or butter to which milk or cream has been added. No person can manufacture any butter containing over sixteen per centum of water. No person can sell, offer or have in his possession for sale:

- (1) Any butter moulded or cut into prints, blocks, squares or pats, unless such prints, blocks, squares or pats are of the full net weight of one-quarter pound, one-half pound, one pound

or two pounds at the time they are moulded or cut (but this does not apply to butter in rolls or lumps, of indiscriminate weight, as sold by farmers); or

- (2) Any butter packed in tins or other packages alleged to contain any definite weight of butter unless such package contains the full net weight of butter as alleged, exclusive of the weight of the package and of any paper, brine or other filling. See OLEOMARGARINE.

Cheese.—No person either by himself or through the agency of any other person can manufacture, or knowingly buy, sell, offer, expose or have in his possession for sale any cheese manufactured from or by the use of skimmed milk, to which has been added any fat which is foreign to such milk.² No person either by himself or through the agency of any other person, can (1) incorporate in a new cheese, during the process of its manufacture, any inferior curd or cheese; (2) knowingly sell, expose or have in his possession for sale, without giving due notice thereof, any cheese in which has been incorporated, during the process of manufacture, any inferior curd or cheese.

Inspectors Entering Premises.—Any person charged with the enforcement of this law may enter the premises of any suspected person for the purpose of making an examination of dairy products therein; and may enter any premises to make an examination of dairy products and the marking, whether such dairy pro-

² Canada, 1914, ch. 7, sec. 6.

³ Canada, 1914, ch. 7, sec. 7.

ducts are on the premises of the manufacturer or owner, or on other premises, or in the possession of a railway or steamship company, or elsewhere.⁴

Regulations.—The Governor-in-Council may make such regulations as he deems necessary for:

- (1) The classification, marking, and branding of butter, cheese and other dairy products;
- (2) The taking of samples of butter, cheese and other dairy products and imitations thereof;
- (3) The seizure and confiscation of apparatus and materials used in the manufacture of any butter, cheese or other dairy product or imitations thereof in contravention of any of the provisions of this Act or of any regulation made thereunder;
- (4) The seizure and confiscation of any apparatus used in the treatment of milk, butter, cheese or other dairy product, when such treatment causes the said milk, butter, cheese or other dairy product to contravene any of the provisions of this Act or of any of the regulations made thereunder;
- (5) The seizure and confiscation of any illegal dairy product as defined in this Act;
- (6) The efficient enforcement and operation of this Act;
- (7) The imposition upon summary conviction of penalties not exceeding thirty dollars and costs upon any person violating any regulation made under the provisions of this Act.⁵

⁵ Canada, 1914, ch. 7, sec. 16 (1).

⁴ Canada, 1914, ch. 7, sec. 15.

All regulations made under the provisions of this Act are published in *The Canada Gazette* and come into force upon and after the date of such publication or upon and after such date as may be named for that purpose in such regulations.⁶

II. Alberta.

Generally.—The dairy industry in this Province has been regulated for a number of years. The formation of dairy associations, and the conduct of creameries, cream stations, and cheese factories, have had special attention. Government assistance by way of loans has in many instances been extended to creameries. The principal provisions are given below, but in addition there are regulations which are passed by Order-in-Council. These, of course, cannot be given here, but any regulations from time to time passed can be obtained from the Department of Agriculture for the Province.

Dairy Associations.—Any five or more persons who desire to associate themselves together for the purpose of manufacturing butter or cheese or both or providing cold storage for the safe keeping therein of the same, or for the purpose of fattening poultry, may make, sign and acknowledge before any person empowered to administer oaths or affidavits to be used in the Supreme Court of the Province and file in the office of the Provincial Secretary a declaration in writing to that effect. Such declaration must state the name of one of the persons signing the same as having been ap-

⁶ Canada, 1914, ch. 7, sec. 16 (2).

pointed provisional secretary of the association. Upon the filing of the declaration the members of the association become a body corporate by the name therein described with power to purchase, hold, sell, pledge or mortgage such lands as are required for the convenient management of their business, with full power to do all necessary acts and enter into all necessary contracts for the purpose of managing and conducting their said business. No such declaration can be filed unless shares to the extent of \$1,500 have been subscribed of which not less than \$1,000 have been paid up by the persons signing such declaration. Evidence of such subscription and payment must be filed with such declaration. The liability of the members, the election of officers, and the general rules of management are fixed by the statute, but the association can make its own by-laws.

Cream Stations and Creameries.—A creamery is any place to which is brought the milk or cream from the herds of five or more persons for the purpose of being manufactured into butter for public sale. A cream station is a place operated as a branch of any creamery, where cream is received from individual patrons by an agent of any such creamery, and where either several or all of the following services are being performed by any such agent, namely: the weighing, sampling, grading, testing and storing of each such lot of cream before it is transported or forwarded to such creamery in the individual patron's cans, or transferred into shipping cans for the purpose of being so transported or forwarded.

Licenses.—The Minister of Agriculture for the Province can issue licenses to creameries, cream stations, cheese factories, and to graders and testers of milk and cream. After June 1, 1918, no person is allowed to operate a milk or cream testing apparatus to determine the percentage of butter fat in milk or cream for purchase by himself or another, without a license from the Minister of Agriculture. Particulars as to these licenses and the necessary steps to get same can be obtained from the Agricultural Department of the Province.

Sanitation.—The buildings and premises of every creamery, cream station and cheese factory must be kept in a sanitary condition satisfactory to a dairy inspector. All materials entering into the manufacture of butter and cheese must be clean and wholesome and the methods employed in manufacturing, sanitary. The methods of handling and caring for milk, cream and the dairy utensils used by patrons must be clean and sanitary and satisfactory to the dairy inspector.

Tests.—Where the butter fat contents of milk supplied to a creamery or cheese factory is determined by the Babcock test, the measuring pipette must have a marked capacity of 17.6 cubic centimeters. Where the butter fat contents of cream supplied to a creamery is determined by the Babcock test, the standard sample of cream taken for testing must weigh neither more nor less than 18 grammes. Where a composite test is made to determine, by the Babcock test, the percentage of butter fat contained in milk or cream supplied to creameries, cream stations and cheese factories by

any patron, a sample must be taken from each weighing, and the proportion which such sample bears to the weight of the milk or cream from which it is taken must be maintained in the taking of all other samples entering into such composite test. The samples of milk and cream collected for a composite test from each patron must be kept in a cool place, in a separate, tightly stoppered glass bottle or jar plainly labeled with the patron's name. A record must be kept of all tests, composite or otherwise, made to determine the butter fat contents of milk or cream, and any patron or any inspector has the right to examine such record at all reasonable hours.

Records.—The owner, operator, manager or other person in charge of a creamery, cream station or cheese factory must keep a record of the amount of milk or cream received each day from each patron, and the disposition made thereof. The weight of all butter and cheese manufactured daily must also be recorded. Any patron or inspector has the right to examine such records at all reasonable hours.

Statements.—The owner, operator, manager or other person in charge of any creamery or cream station must make and deliver with every payment to each patron a statement showing among other details: (1) the period which each payment covers; (2) the quantity of milk or cream supplied by him during such period; (3) the butter fat contents in pounds of such milk or cream; (4) the grade of such milk and cream; (5) the rate of payment per pound of butter fat. The owner, operator, manager or other person in charge of

any cheese factory must make and deliver with every payment to each patron a statement showing among other details: (1) the period which such payment covers; (2) the quantity in pounds of milk supplied by him during such period; (3) if payment is based on the grade and on the butter fat value of such milk, then the grade and the butter fat contents in pounds must be shown; (4) the basis and rate of payment per pound of butter fat or per hundred pounds of milk.

Inspection of Creameries.—Upon the report of any dairy inspector that a creamery, cream station or cheese factory is not in a sanitary condition or that the methods of manufacture are unsanitary the Minister may order the owner, operator, manager or other person in charge thereof to close the same forthwith and it must be kept closed until the dairy inspector reports that the sanitary condition and methods are satisfactory.

Weight, Grade and Classification.—No owner, operator, manager, or other person in charge of any creamery, cream station or cheese factory is allowed to base the purchase price upon a weight, grade or classification other than the *correct* weight, grade or classification.⁷

III. Saskatchewan.

Act.—*The Dairy Products Act*, 1920, regulates the manufacture of dairy products in the Province of Saskatchewan. This Act came into force on the first day of April, 1920, and contains practically the whole law respecting the dairy industry in the Province.

⁷ Alberta, 1919, ch. 42, sec. 4.

Definitions.—Certain special terms and expressions are used in the law respecting dairying. These are given in order that the reader shall not wrongly interpret the law. A “buying station” means a place where farmers’ milk or cream is delivered for weighing, sampling, testing or grading, and thence shipped or delivered to another point for the purpose of manufacture or re-sale.¹ A “cheese factory” means any place at which the milk from fifty or more cows is manufactured into cheese or where the milk from the herds of five or more persons is received for the purpose of being manufactured into cheese.² A “creamery” means any place at which the milk or cream from fifty or more cows is manufactured into butter, or where the milk or cream from the herds of five or more persons is received for the purpose of being manufactured into butter.³ A “dairy” means a building to which milk or cream is delivered for the purpose of supplying the wholesale or retail trade of a village, town or city.⁴ “Ice cream plant” means any building or room or portion of same wherein ice cream is manufactured for purposes of sale either by wholesale or retail.⁵

Creamery Licenses, etc.—Any person desiring to operate a creamery, buying station, cheese factory, dairy or ice cream plant as above defined must make application, in writing, to the Minister of Agriculture for the Province. The application form is provided by the Government, and contains statements as to name,

¹ Saskatchewan, 1919-20, ch. 46, sec. 2 (1).

² Saskatchewan, 1919-20, ch. 46, sec. 2 (2).

³ Saskatchewan, 1919-20, ch. 46, sec. 2 (3).

⁴ Saskatchewan, 1919-20, ch. 46, sec. 2 (4).

⁵ Saskatchewan, 1919-20, ch. 46, sec. 2 (6).

location, nature of business, the assets and liabilities of the applicant and the probable value of the milk and cream to be purchased monthly.⁶ After the application is approved, a bond is executed by which the applicant guarantees to faithfully account and report to all persons entrusting him with consignments of milk and cream, and to pay according to its true value.⁷ Plans of premises must be submitted for approval. It is provided by the Act that from and after 1st May, 1920, no person shall operate a creamery, buying station or cheese factory unless licensed to do so. The license is valid until April 30th⁸ next following its issue. A fee of \$5 is payable.⁸ The Minister of Agriculture can suspend or revoke any license for violations of the Act.⁹

Cream Testers.—No person is allowed to operate a milk or cream testing apparatus to determine the percentage of butter fat in milk or cream for himself or for another without first securing a license, authorizing such person to operate the tester. The license is obtained from the Agricultural Department of the province, and is valid until the 30th day of April next following its issue. A fee of \$2 is payable.¹⁰ An examination must be passed and proof given by actual demonstration of the competency and qualification of the applicant to properly operate the tester.¹¹ These examinations are conducted by the Saskatchewan University, and a fee of \$2 is payable. A licensed person

6 Saskatchewan, 1919-20, ch. 46, sec. 23 (1).

7 Saskatchewan, 1919-20, ch. 46, sec. 23 (3).

8 Saskatchewan, 1919-20, ch. 46, sec. 24 (2).

9 Saskatchewan, 1919-20, ch. 46, sec. 32.

10 Saskatchewan, 1919-20, ch. 46, sec. 25 (2).

11 Saskatchewan, 1919-20, ch. 46, sec. 25 (3).

can, in case of sickness, or other emergency, appoint a capable unlicensed substitute for not longer than 10 days, but notice must be given in writing to the dairy commissioner, and the date on which the substitute assumed charge must be stated.¹²

Sanitation.—All buildings and premises of the creamery, buying station, cheese factory, dairy or ice cream plant must be kept in a sanitary condition.¹³ If the dairy commissioner reports that such premises are not in a sanitary condition, or that the methods of manufacture are unsanitary, the Minister of Agriculture for the province can order the owner, manager or other person in charge of the premises to forthwith close the same, and to keep them closed until the dairy commissioner reports that they are sanitary.¹⁴

Inspection and Grading.—The dairy commissioner and any inspector can at all reasonable hours have free access and admission to all premises, to everything contained therein, and on the premises, used for any dairy purpose by any patron. An inspector has authority to weigh and take samples. The grading is done under regulations which can be obtained from the Agricultural Department for the province, as and when the same are issued.¹⁵

Methods of Manufacture.—The ingredients used in the manufacture of butter, cheese and ice cream must be clean and wholesome. The methods of manufacture must be sanitary and the handling and caring of milk

¹² Saskatchewan, 1919-20, ch. 46, sec. 26.

¹³ Saskatchewan, 1919-20, ch. 46, sec. 8.

¹⁴ Saskatchewan, 1919-20, ch. 46, sec. 31.

¹⁵ Saskatchewan, 1919-20, ch. 46, secs. 5-7.

and cream must be clean. Empty containers must be washed. No person is allowed to deliver to any express, railway or other transportation company any empty milk, cream or ice cream container for shipment, forwarding or delivery unless the same has first been thoroughly washed or cleansed and rendered sanitary.¹⁶

Sample and Testing.—Where the butter fat content of milk supplied to a creamery, buying station, cheese factory or ice cream plant is determined by the Babcock test, the measuring pipette used must have a marked capacity of 17.6 cubic centimeters. The butter fat content of cream supplied to a creamery or an ice cream plant must be determined by the Babcock test, and the sample of cream taken for testing must be weighed into a test bottle. It must weigh exactly 18 grammes. When a composite test is made to determine the percentage of butter fat contained in milk or cream supplied to creameries, cheese factories and ice cream plants by a patron, a sample must be taken from each weighing, and the proportion which the weight of any one sample bears to the weight of the milk or cream from which it is taken must be maintained in all other samples entering into such composite test. The samples collected for a composite test from several lots received from any one patron must be kept in a cool place in a separate tightly stoppered glass bottle or jar, plainly labelled with the patron's name or number. Records of all tests must be kept.¹⁷

¹⁶ Saskatchewan, 1919-20, ch. 46, secs. 9-11.

¹⁷ Saskatchewan, 1919-20, ch. 46, secs. 12-16.

Purchase of Milk and Cream.—No owner, manager or other person in charge of a creamery, buying station, cheese factory or ice cream plant is allowed to base the purchase price other than upon the correct weight, grade or classification. A statement must be delivered to each patron of a creamery, buying station or ice cream plant with every payment, showing: (1) the period which the payment covers; (2) the quantity of milk or cream supplied by him during such period; (3) the butter fat contents, in pounds, of such milk and cream; (4) the grade of such milk and cream; and (5) the rate of payment per pound of butter fat. In the case of a cheese factory the statement must show: (1) the period which the payment covers; (2) the quantity, in pounds, of milk supplied by him during such period; (3) the grade and butter fat content, in pounds, if payment is based on the grade and on the butter fat content of the milk; (4) the basis and rate of payment per pound of butter fat or hundred pounds of milk, as the case may be. Records must be kept of amount of milk or cream received each day from each patron, of the disposition thereof, and of the weight of all butter and cheese manufactured daily, and the quantity, in gallons, of ice cream manufactured daily.¹⁸

Municipal Supervision of Industry.—No municipal by-law or regulation affecting the production, manufacture or sale of dairy products is operative until approved by the dairy commissioner for the province.¹⁹

¹⁸ Saskatchewan, 1919-20, ch. 46, secs. 17-21.

¹⁹ Saskatchewan, 1919-20, ch. 46, sec. 27

Offences and Penalties.—The offences include (1) unjust discrimination; (2) obstructing officials; (3) over-reading or under-reading the Babcock test; (4) notation of provisions of The Dairy Products Act, 1920. The Minister of Agriculture can suspend or revoke licenses for violation of the laws respecting the dairy industry of this province.

IV. Manitoba.

Act.—The dairy industry of Manitoba is regulated by *The Dairy Act*, 1915. This statute deals with the incorporation of creameries, and cheese factories, the sale of milk, and manufacture of milk products. It also provides for the formation of dairy associations.

Definitions.—Certain words have been given special meanings in the dairy law. “Creamery” means a butter factory where the milk or cream of fifty or more cows is received. “Creamery butter” means butter which is manufactured in a creamery. “Dairy” means a place where the milk or cream of less than fifty cows is manufactured into butter or cheese. “Dairy butter” means butter manufactured in a home dairy. “Home dairy cheese” means cheese manufactured in a home dairy.

Incorporation of Creameries and Cheese Factories.—This is done by declaration signed by five or more persons, filed in accordance with the Act. The declaration cannot be filed until certain conditions have been fulfilled. These conditions include, amongst other things, approval of site and plans for buildings and subscription of at least \$4,000 worth of shares, of

which 25 per cent. of amount has been paid up. The association, when once incorporated, has power to hold land, to sell and mortgage its land, and to carry on litigation in connection with its business. Rules governing meetings of the association have to be filed in the Agricultural Department offices, and records kept of all meetings. Elections of officers take place by ballot, each member having one vote only, regardless of the number of shares held by him, and no shareholder can vote by proxy.¹

Sanitation.—The buildings and premises of every creamery and cheese factory are required to be kept in a sanitary condition satisfactory to any dairy inspector. Penalties are provided for violation of the rules and regulations respecting sanitation. The site, buildings, machinery and sanitary arrangements must be approved before commencing operations.²

Sale of Milk and Cream.—No person is allowed to sell milk in this province for consumption as such containing less than eight and one-half per cent. of solids, not fat, or less than three and a quarter per cent. of butter fat.³ No person is allowed to sell cream for consumption as such containing less than 18 per cent. of butter fat.⁴

Adulteration of Milk.—The adulteration of milk is prohibited. Persons who sell, supply, bring or send to any creamery or cheese factory in the province for manufacture any milk diluted with water, or in any

¹ Manitoba, 1918, ch. 17, sec. 1.

² Manitoba, 1919, ch. 22, sec. 1.

³ Manitoba, 1915, ch. 14, sec. 41.

⁴ Manitoba, 1915, ch. 14, sec. 41.

way adulterated, or milk commonly known as "skimmed milk," or milk or cream from a cow which he knows to be diseased, or who keeps back the "strip-pings," is liable to prosecution.⁵

Cream Receiving Stations.—On and after May 1st, 1921, no person in Manitoba is allowed to own, operate, manage, have charge of or be interested in any cream receiving station, and no person is permitted to deliver cream to or accept cream from any cream receiving station after that date.⁶ Licenses are no longer issued for cream receiving stations.

Licenses.—Licenses for creameries and other premises are issued by the Department of Agriculture, and no dairying business should be commenced without first writing to that Department for information.

DESCENT AND DISTRIBUTION.

I. Alberta.

(In force 1st June, 1921).

Generally.—The law respecting descent and distribution in this province has recently been revised and consolidated.¹ The new law becomes effective on 1st June, 1921. It is more or less based on the old law, and is different only in a few respects. It settles all doubts and difficulties with regard to the rights of children. It must be remembered that these laws deal with an *intestacy*, i.e., a case where a person dies with-

⁵ Manitoba, 1915, ch. 14, sec. 44.

⁶ Manitoba, 1915, ch. 14, sec. 44.

⁷ Manitoba, 1919, ch. 22, sec. 6.

¹ Alberta. The Intestate Succession Act, 1920.

out making a will, either wholly or as to part of his estate. The reader will, of course, understand that a person of the full age of 21 can always make a will leaving his property to whomsoever he pleases, subject to any dower or other special provision regarding a wife's right to share in the husband's property. It is always advisable to make a will, but in the event of one not being made, the property will, in this province, be divided as hereinafter mentioned.

Property to be Distributed.—A man may die intestate, i.e., without a will, as to the whole of his property or perhaps only as to part of his property. The distributable property, therefore, means property distributable by the executor or administrator of a person dying intestate with regard thereto, whether such property be all of his property or not, and includes lands which go to the personal representative of the deceased owner thereof. All property is distributed as personal estate.²

Husband, Wife, and Children.—If an intestate dies leaving a husband or wife (as the case may be) then—

- (1) If two or more children of the intestate are living, one equal third part of the property is distributed to the husband or wife;
- (2) If one child only is living, one-half of the property is distributed to the husband or wife;
- (3) If no child is living, all the property is distributed to the husband or wife;
- (4) If a wife has left her husband and is living in adultery at the time of her husband's death

or has at any time lived in adultery with another man, and such adultery has not been condoned, no part of her husband's property is distributed to such wife;

- (5) If a husband has left his wife and is living in adultery at the time of his wife's death or has at any time lived in adultery with another woman, and such adultery has not been condoned, no part of his wife's property can be distributed to such husband.

Where any issue of a child is living, the property is distributed to the husband or wife as if such child were living at the date of the death of the intestate. If an intestate dies leaving issue then, subject to the rights of a surviving husband or wife, the property is distributed among such issue *per stirpes*, and so that no descendant of living issue of the intestate takes any share of the property. All advances by portion made by a person who dies wholly intestate must be brought into hotchpot in the distribution of the property.³

Father and Mother.—If an intestate dies leaving no husband or wife or issue, then the property is distributed to the father and the mother of the intestate, if then living, in equal shares, and if either of them is dead, the whole property is distributed to the other.⁴

Brothers and Sisters.—If an intestate dies leaving no husband, wife, issue, father or mother, but leaving one or more brothers or sisters, either of the whole or of the half blood, the property is distributed to such bro-

³ Alberta, 1920, ch. 11, secs. 3, 4, 5.

⁴ Alberta, 1920, ch. 11, sec. 6.

ther or sister or to such brothers or sisters in equal shares.⁵ If the intestate also leaves a child or children of a deceased brother or sister, such child or children takes by representation the share his or their parent would take if such parent were alive at the date of the death of the intestate.⁶

Next⁴ of Kin.—If an intestate dies leaving no husband, wife, issue, father, mother, brother or sister, the property is distributed in equal shares to the persons surviving him, who are next in degree of kindred to him. Such degrees of kindred are reckoned according to the civil law, both upwards to the common ancestry and downwards to the issue, each generation counting for a degree. No distinction is made between persons of the whole blood and persons of the half blood.⁷

Illegitimate Children.—If an illegitimate intestate dies leaving a husband or wife or any issue, his property is distributed to the person or persons who would be entitled to the property if the intestate were not illegitimate. If an illegitimate intestate dies without issue and without husband or wife, his property is distributed to his mother. If the parents of a child born out of wedlock afterwards intermarry, such child is thereby legitimized. Illegitimate children are entitled to take property from or through their mother as if they were legitimate.⁸

⁵ Alberta, 1920, ch. 11, sec. 7 (a).

⁶ Alberta, 1920, ch. 11, sec. 7 (b).

⁷ Alberta, 1920, ch. 11, sec. 8.

⁸ Alberta, 1920, ch. 11, sec. 9.

Residuary Estate.—Any residue of the property of a deceased person not expressly disposed of by his will, vests in his executor or executors as trustee or trustees for the person or persons entitled to property distributable by an executor unless it appears by the will or any codicil thereto that the said executor or executors were intended to take beneficially.⁹

Lapsed Legacies and Devises.—Where any person being a child or other issue of a testator to whom any real or personal estate is devised or bequeathed for any estate or interest not determinable at or before the death of such person dies in the lifetime of the testator, and any issue of any such person is living at the time of the death of the testator, such devise or bequest does not lapse, but takes effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will.¹⁰

Commencement of Law.—These laws do not come into force until the first day of June, 1921.

II. Saskatchewan.

Act.—The law respecting descent of land and the distribution of property, including the devolution of estates on intestacy, is governed in Saskatchewan by *The Devolution of Estates Act, 1919*.¹

Definitions.—The terms and expressions which have a special legal meaning are here given for the benefit

⁹ Alberta, 1920, ch. 11, sec. 10.

¹⁰ Alberta, 1920, ch. 11, sec. 11.

¹ Saskatchewan, 1918-19 ch. 20.

of the reader. The word "issue" includes all lawful lineal descendants of the intestate.² The term "personal property" extends to and includes leasehold estates and other chattels, real, and also moneys, shares of Government and other stocks or funds, securities for money, not being real property, debts, choses in action, rights, credits, goods, and all other property whatsoever other than real property.³ The term "real property" includes messuages, lands, rents and hereditaments, whether of freehold or any other tenure whatsoever, and whether corporeal or incorporeal, and any undivided share thereof, and any estate, right or interest other than a chattel or interest therein.⁴

Widow and Children's Shares.—If an intestate dies leaving a widow and one child, then one-half of his real and personal property goes to each.⁵ If he dies leaving a widow and children, one-third of his real and personal estate goes to his widow and the remaining two-thirds to his children in equal shares.⁶ In the last mentioned case, if a child has died the distributive share of such child goes to those who legally represent him, such representatives to take in equal proportions.⁷ If there is no child of the intestate living at the time of his death, the share of the property which would otherwise go to his child or children, goes to the lineal descendants of the intestate.⁸ If all such descendants are in the same degree of kindred to the

² Saskatchewan, 1918-19, ch. 20, sec. 2 (1).

³ Saskatchewan, 1918-19, ch. 20, sec. 2 (2).

⁴ Saskatchewan, 1918-19, ch. 20, sec. 2 (3).

⁵ Saskatchewan, 1918-19, ch. 20, sec. 16 (1).

⁶ Saskatchewan, 1918-19, ch. 20, sec. 16 (2).

⁷ Saskatchewan, 1918-19, ch. 20, sec. 16 (3).

⁸ Saskatchewan, 1918-19, ch. 20, sec. 16 (4).

intestate they take the property equally, otherwise they take according to the right of representation.⁹

Widow Only.—If an intestate dies leaving a widow and no issue, his whole estate, real and personal, goes to his widow.¹⁰

Children Only.—If an intestate dies leaving a child or children or issue, and no widow, his whole estate, real and personal, goes to his child, or children, in equal shares, and if any of the children have died leaving issue, such issue takes according to their right of representation.¹¹

Father or Mother.—If an intestate dies leaving no widow or issue, his whole estate, real and personal, goes to his father.¹² If an intestate dies leaving no widow, issue or father, then his whole estate, real and personal, goes to his mother.¹³

Brothers and Sisters.—If an intestate dies leaving no widow, or issue, or father, or mother, his whole estate, real and personal, goes to his brothers and sisters in equal shares, and if any of his brothers or sisters be dead, the children of such deceased brother or sister takes the parents' shares.¹⁴

Next of Kin.—If an intestate dies leaving no widow, issue, father, mother, brother or sister, or children of any brother or sister, his estate, real and personal, goes, in equal shares, to his next of kin in equal degrees, ex-

⁹ Saskatchewan, 1918-19, ch. 20 sec 16 (4)

¹⁰ Saskatchewan, 1918-19, ch. 20, sec. 17.

¹¹ Saskatchewan, 1918-19, ch. 20, sec. 18.

¹² Saskatchewan, 1918-19, ch. 20, sec. 19.

¹³ Saskatchewan, 1918-19, ch. 20, sec 20.

¹⁴ Saskatchewan, 1918-19, ch. 20, sec. 21.

cepting that when there are two or more collateral kindred in equal degrees, but claiming through different ancestors, those who claim through the nearest ancestor are preferred to those claiming through an ancestor who is more remote; but in no case are representatives admitted among collaterals after brothers' and sisters' children.¹⁵

Deceased Minor Children.—If an intestate dies leaving several children, or one child, and the issue of one or more other children, and any surviving child dies under age, and not having been married, then all the property, real and personal, that came to the deceased child by inheritance from such deceased parent goes in equal shares to the other children of the same parent and to the issue of any such other children who have died, by right of representation.¹⁶ If (at the death of such child, who dies under age, and not having been married) all the other children of his parent are also dead, and any of them shall have left issue, then all the property, real or personal, that came to such child by inheritance from his parent, descends to all the issue of the other children of the same parent; and if all the issue are in the same degree of kindred to such child they take such property equally, otherwise they take according to the right of representation.¹⁷

Half and Whole Blood.—Degrees of kindred are computed according to the rules of the civil law, and the kindred of the half-blood inherit equally with those of the whole blood in the same degree.¹⁸

¹⁵ Saskatchewan, 1918-19, ch. 20, sec. 22.

¹⁶ Saskatchewan, 1918-19, ch. 20, sec. 23 (1).

¹⁷ Saskatchewan, 1918-19, ch. 20, sec. 23 (2).

¹⁸ Saskatchewan, 1918-19, ch. 20, sec. 38.

Posthumous Children.—Descendants and relatives of the intestate begotten before his death, but born thereafter, inherit in all cases in the same manner as if they had been born in the lifetime of the intestate, and had survived him.¹⁹ Any child born after the death of his father for whom no provision is made in the will of the father, has the like interest in the real and personal property of his father as if the father had died intestate, and all the devisees and legatees under such will abate, in proportion, their respective devises and bequests.²⁰ The share of such posthumous child is set out and assigned by the Court of King's Bench, or other court having jurisdiction so as to affect, as little as possible, the disposition made by the testator of his property.²¹

Advances to Children.—If any child of an intestate has been advanced by the intestate by settlement or by portion of real or personal property or both of them, and the same has been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value is reckoned only as part of the real and personal property of such intestate distributable according to law, and, if such advancement is *equal or superior* to the amount of the share which such child would be entitled to receive of the real and personal property of the deceased, as reckoned above, then such child and his descendants are excluded from any share in the real and personal property of the intestate.²² If such advancement is *not equal* to such share, such

¹⁹ Saskatchewan, 1918-19, ch. 20, sec. 39 (1).

²⁰ Saskatchewan, 1918-19, ch. 20, sec. 39 (2).

²¹ Saskatchewan, 1918-19, ch. 20, sec. 39 (3).

²² Saskatchewan, 1918-19, ch. 20, sec. 40 (1).

child and his descendants are entitled to receive so much only of the personal property and real property of the intestate as is sufficient to make all the shares of the children in such real and personal property and advancement to be equal as nearly as can be estimated.²³ The value of any real or personal property so advanced is deemed to be that which has been expressed by the intestate or acknowledged by the child in any instrument in writing, otherwise such value is estimated according to the value of the property when given.²⁴ The maintaining or educating or the giving of money to a child without a view to a portion or settlement in life is not considered an advancement within the meaning of the above.²⁵

Illegitimate Children.—Illegitimate children inherit from the mother as if they were legitimate, and through the mother, if dead, any real or personal property which she would, if living, have taken by purchase, gift, demise, or descent, from any other person. If an intestate, being an illegitimate child, dies leaving no widow or husband or issue, the whole of such intestate's property, real and personal, goes to his or her mother.²⁶

Residuary Estate.—All property, real and personal, that is not devised by the will is distributed as if the testator had died intestate.

²³ Saskatchewan, 1918-19, ch 20, sec. 40 (2)

²⁴ Saskatchewan, 1918-19, ch. 20, sec 41.

²⁵ Saskatchewan, 1918-19, ch 20, sec. 42

²⁶ Saskatchewan, 1918-19, ch. 20, secs. 45-46

III. Manitoba.

Act.—The law respecting the devolution of the estate of a person who dies intestate in Manitoba is regulated by "The Devolution of Estates Act," R.S.M., 1913, ch. 54.

Definitions.—There are several terms and expressions which have been given a special meaning. The reader should note that legal terms and expressions are often different in their meaning from similar everyday words and phrases. In the law respecting devolution of estates in Manitoba, the expression "land" includes lands, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, whatever the estate or interest therein may be, and whether legal or equitable, together with all paths, passages, ways, watercourses, liberties, privileges, easements, mines, minerals and quarries appertaining thereto, and all trees and timber thereon and thereunder lying or being, unless any such are specially excepted.¹ The word "heir" has a special meaning, it being provided that in the case of a person dying on or after 1st July, 1885, where it is necessary to interpret or construe the expressions "heirs" and "heirs and assigns," or "heirs, executors, administrators or assigns," or any expression of a similar import, they shall be interpreted or construed as meaning the personal representative, unless a contrary intention clearly appears.²

Debts and Funeral Expenses.—When a person dies intestate in Manitoba, the real or personal estate, or

¹ Manitoba, 1913, R.S.M., ch. 54, sec. 2 (a).

² Manitoba, 1913, R.S.M., ch. 54, sec. 22.

both (except in so far as either or both may be excepted by any law or enactment) are chargeable with all legal debts, liabilities and funeral expenses.³

Widow and Children.—If an intestate dies leaving a widow and a child or children or issue, the property is distributed as to one-third of his real and personal estate to his widow, and the remaining two-thirds to his child, or, if more than one, to his children, in equal shares and, in case of the decease of any of his children, to the children or issue of such deceased child in equal proportions, and if there be no child of the intestate living at the time of his death, to his other lineal descendants, and if all the descendants are in the same degree of kindred they share the estate equally, otherwise they take according to the right of representation.⁴

Widow Only.—If an intestate dies leaving a widow, and no issue, his whole estate, real and personal, goes to his widow, and if there be no widow or issue, the whole goes to his father.⁵

Children Only.—If an intestate leaves a child or children or issue, and no widow, his whole estate, real and personal, goes to his child or children in equal shares; and if any of the children have died, leaving issue, such issue takes according to their right of representation.⁶

Next of Kin.—If an intestate leaves no widow, or child, or children, nor any lineal descendant of any

³ Manitoba, 1913, R.S.M., ch. 54, sec. 3.

⁴ Manitoba, 1913, R.S.M., ch. 54, sec. 4.

⁵ Manitoba, 1913, R.S.M., ch. 54, sec. 5.

⁶ Manitoba, 1913, R.S.M., ch. 54, sec. 6.

child or children, his whole estate, real and personal, goes to his father.⁷ If he has no father, it goes to his mother, brothers and sisters, in equal shares.⁸ If he has no father, brothers or sisters, his whole estate, real and personal, goes to his mother.⁹ If he has no father or mother, it goes to his brothers and sisters in equal shares; or if any of his brothers or sisters be dead, their children take their parent's share.¹⁰ If any intestate has no father, or mother, or brother, or sister, or children of any brother or sister, his estate, real and personal, goes to his next of kin, in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor are to be preferred to those claiming through an ancestor who is more remote; but in no case are representatives admitted among collaterals, after brothers' and sisters' children.¹¹

Married Women.—The property of a married woman dying intestate is distributed in the same proportions, and in the same manner, as the property of a husband dying intestate.¹²

Advancements During Lifetime.—If any child of an intestate has been portioned, or otherwise provided for, by an advance in money or in any other way, by the intestate in his lifetime, to an amount equal to the distributive share of the other children, he is excepted in the distribution of the estate; but if any child of an

⁷ Manitoba, 1913, R.S.M., ch. 54, sec. 12.

⁸ Manitoba, 1913, R.S.M., ch. 54, sec. 12.

⁹ Manitoba, 1913, R.S.M., ch. 54, sec. 12.

¹⁰ Manitoba, 1913, R.S.M., ch. 54, sec. 12.

¹¹ Manitoba, 1913, R.S.M., ch. 54, sec. 12.

¹² Manitoba, 1913 R.S.M., ch. 54, sec. 15.

intestate has been only in part so portioned or provided for, he gets so much of the estate as will make his share equal to the share of each of the rest.¹³

Half and Whole Blood.—It makes no difference in the distribution of intestate estates whether the relationship be by the whole or the half-blood.¹⁴

Posthumous Children.—Posthumous children share equally with children born during the lifetime of the intestate.¹⁵ Where any child is born after death, and no provision has been made in the will for such child, he has the like interest in the real and personal estate as if there had been an intestacy, and all the devisees and legatees in the will abate proportionately their respective devises and bequests; the share of the posthumous child is set out and assigned to the court so as to affect as little as possible the disposition made by the testator of his property.¹⁶

Deceased Minor's Share.—If an intestate dies leaving several children, or leaving one child, and the issue of one or more others, and any such surviving child dies under age and not having been married, all the estate that came to the deceased child descends in equal shares to the other children of the same parent, and to the issue of any such other children who have died, by right of representation.¹⁷ If (at the death of such child who dies under age and not having been married), all the other children of his parent are also dead, and any of them have left issue, then the estate

¹³ Manitoba, 1913 R.S.M., ch. 54, sec. 7.

¹⁴ Manitoba, 1913 R.S.M., ch. 54, sec. 8.

¹⁵ Manitoba, 1913 R.S.M., ch. 54, sec. 8.

¹⁶ Manitoba, 1913 R.S.M., ch. 54, sec. 11.

¹⁷ Manitoba, 1913 R.S.M., ch. 54, sec. 9.

that came to such child by inheritance from his parent descends to all the issue of the other children of the same parent; and if all the issue are in the same degree of kindred to such child, they get his estate equally, otherwise they take according to the right of representation.¹⁸

Residuary Estate.—All real and personal estate as is not devised in a will is distributed as if the testator had died intestate.¹⁹

Descent of Land.—The descent of land in Manitoba is governed by *The Devolution of Estates Act*.²⁰ Land in this province vested in any person without a right in any other person to take by survivorship goes to the personal representatives of deceased owners, notwithstanding any testamentary disposition thereof, and in the same manner as personal estate goes.²¹ The personal representatives hold the lands as trustee for the persons by law beneficially entitled thereto.²² All enactments and rules of law relating to the effect of probate or letters of administration, as respects chattels real, and as respects the dealing with chattels real before probate or administration, and as respects payment of costs of administration, and other matters in relation to the administration of personal estate, and the powers, rights, duties, and liabilities of personal representatives in respect of personal estate apply to land so far as the same are applicable, as if that land were a chattel real vesting in them or him, except that

¹⁸ Manitoba, 1913, R.S.M., ch. 54, sec. 10.

¹⁹ Manitoba, 1913 R.S.M., ch. 54, sec. 13.

²⁰ Manitoba, 1913 R.S.M., ch. 54.

²¹ Manitoba, 1913 R.S.M., ch. 54, sec. 21.

²² Manitoba, 1913, R.S.M., ch. 54, sec. 21 (3).

it is not lawful for one only of several joint personal representatives without the authority of the registrar-general to sell or transfer land.²³ In the administration of the assets of a deceased person his land is administered in the same manner, subject to the same liabilities for debts, costs and expenses, and with the same incidents, as if it were personal estate.²⁴ This does not affect or alter the order in which real and personal assets, respectively, are now applicable towards payment of funeral or testamentary expenses, debts or legacies, or the liability of land to be charged with the payment of legacies.²⁵ If the personal representatives fail to transfer the land to the persons entitled under the will, then an application should be made to the Surrogate Court to compel them to make the transfer. They are, however, allowed one year from the date of the probate or letters of administration within which to wind up the estate.

DISTRESS

Generally.—Distress means the taking or distraining of something for the purpose of enforcing payment of a debt. Distress for rent means the taking by the landlord or his agent of the goods and chattels of the tenant and selling them to realize overdue rent. The word “distress” used here means therefore the seizing of the tenant’s goods for non-payment of rent.

When the Right of Distress Arises.—The right of distress arises whenever any tenancy is created, whether

²³ Manitoba, 1913 R.S.M., ch. 54, sec. 21 (4).

²⁴ Manitoba, 1913 R.S.M., ch. 54, sec. 21 (5).

²⁵ Manitoba, 1913 R.S.M., ch. 54, sec. 21 (5).

for a term of years or a yearly, quarterly, monthly or weekly tenancy, and there is rent overdue under that tenancy. The distrainer, the landlord, must be entitled to the land when the rent becomes overdue. When there is a clause in a mortgage giving the mortgagee such right he may distrain the goods of the mortgagor and sell and realize overdue interest.

When Distress May be Made.—The rent must be overdue unless the parties otherwise agree, and it is not so overdue until the first moment of the day after the rent fell due, but no distress can be made until after sunrise and before sunset of the day on which it is made. This means that no distress can be made until after sunrise on the day following that on which the rent falls due. No distress can be made on Sunday. The tenant must be in possession of part of the premises. Goods of the tenant cannot usually be distrained after the tenant has left, nor after six months after the termination of the tenancy, nor can it be made by the landlord after he has sold the premises, nor where the lease has been forfeited or otherwise put an end to and the defendant is not in possession.

Where Goods May be Distrained.—With the exception in the next paragraph goods of the tenant must be distrained, i.e., seized on the premises occupied by the tenant. They can be seized on the road or street immediately adjoining the premises, and cattle driven off by the tenant in view of the landlord may be seized on the highway. Also the parties may agree that distress may be made elsewhere than upon the premises.

Fraudulent Removal.—Goods fraudulently removed off the premises by the tenant, i.e., secretly removed with the intention of putting them out of the reach of the landlord when rent is falling due or is in arrear, may at any time within thirty days after such fraudulent removal be seized by the landlord wherever they may be found unless they have in the meantime been sold to some person purchasing them without any knowledge of the landlord's right.

Who May Distrain.—The person who may distrain the tenant's goods in case of non-payment of rent is the person who holds title to the premises leased and has a right to the rent payable at the time the rent is due. Where the land has been sold or the right to the rent assigned, a written notice thereof should always be given to the tenant. Until such notice is given he is entitled to pay the rent to the original landlord. Mortgagees may distrain for rent if it is so provided in the mortgage.

Whose and What Goods May be Distrained.—This is a question out of which immeasurable dispute may arise. It is advisable not to distrain the tenant's goods unreasonably, but to give a warrant of distress to a bailiff who has had a long experience in making distresses and who knows what goods may be seized. Distress or other seizure may be made by a sheriff or his duly appointed bailiff or deputies. The general rule is that all the goods on the premises, including growing crops, cattle, etc., occupied by the tenant or a stranger are liable to seizure. There are, however, exceptions to this rule and exemptions from seizure are numerous.

Goods not Seizable.—The following goods found on the leased premises cannot usually be distrained for rent, namely: (1) goods actually in use by the tenant and his family when the distress is being made, such as clothes being worn, implements or machines being used, horses being ridden; (2) perishable goods, such as meat, milk, picked fruit or corn, and all articles which cannot be restored in the condition they were in when seized; (3) fixtures not removable from the premises without injury thereto are exempt; (4) tools, implements of trade, bedding and wearing apparel; (5) animals in a state of nature as rabbits, coons, foxes, etc.; (6) certain goods which are on the premises but belong to other persons (not related to the tenant), goods of another delivered to the tenant in the way of trade, i.e., such as machinery to be repaired, horses to be shod, etc., and (7) cattle of another straying on the tenant's premises.

How Distress Made.—As stated above, the landlord, unless he has had experience, should in all cases employ a bailiff with experience to make the distress. He should execute a warrant under seal which he gives to the bailiff as his authority to make the seizure. However, in some of the provinces legislation has been enacted which requires the landlord to use the sheriff's bailiffs in all extra judicial matters.

Entry.—Entry on the premises to make the distress must be made sometime between sunrise and sunset through some ordinary and natural means of entry upon the premises, such as through a gate, door or an open window. It is unlawful to break open the doors

or open windows in order to enter. A fence may be climbed. Force may only be used where the bailiff has obtained a lawful entry and has been refused readmittance. When the tenant has fraudulently removed the goods from the premises, windows and doors, etc., may be broken open in order to gain admittance to the place where the goods are.

Seizure, Valuation and Sale.—The bailiff is required to make a list or inventory of the goods seized and serve the tenant with written notice of such sale after goods seized. Within five days from the service of the notice, if the tenant considers the seizure illegal or unjustifiable, he should at once consult a solicitor in order that the goods may be immediately replevied within such five days. The bailiff, after having the goods valued by two valuers sworn before a justice of the peace to value the goods, may sell them at auction for the best price obtainable. An order from the court is in some provinces necessary before the goods seized may be legally sold.

When Distress Should be Suspended.—No distress should be made if the tenant tenders the full amount of rent due in legal tender. If, after the distress is made, the tenant tenders the amount due and costs incurred, the distress or sale should not be proceeded with. The landlord should not accept a promissory note for the rent or he may be unable to continue the distress.

Replevin.—This is an action brought by the tenant claiming that the goods have been wrongfully and illegally seized and should be re-delivered to him. Up-

on the tenant giving security for the rent claimed as due the goods are re-delivered to him and the court then proceeds to try the question as to the claims of the landlord. Such replevin action must be commenced at once so that the goods may be re-delivered to the tenant before the sale.

Costs.—In each province there is provided a special tariff of fees which bailiffs may charge for seizure under distress.²⁶ If the bailiff claims any fees over and above the legal fee he is liable to repay the amount he has so illegally claimed, and may also have to pay more as a penalty.

Illegal or Wrongful Distress.—An illegal distress occurs whenever distress is made where there is no rent due, or when an improper seizure or entry upon the tenant's premises takes place. The tenant's remedy in the above case is to have a replevin action immediately commenced and receive back the goods upon giving the required security. The tenant is entitled to recover damages from the landlord for illegal distress.

Irregular Distress.—This occurs when the bailiff seizing commits some irregularity in the course of the valuation and sale. For this the tenant is entitled to sue the landlord for any damages he has suffered thereby, but usually the amount recoverable does not justify the expense of an action at law.

DOMESTIC ANIMALS.

I. Generally.

Animals at Large.—The law respecting domestic animals, such as horses, mules, sheep, pigs, neat cattle,

²⁶ Saskatchewan, 1918-9, ch. 25; Alberta C.O., ch. 34, and 1914, ch. 4.

and such like, is different in every province. Each province has dealt with these things upon lines best fitted to the agricultural needs of the province. All, however, have found it essential to regulate and control stray animals, entire animals, dangerous and mischievous animals. To-day these laws have become very intricate and it is only by knowledge of local conditions and usages that one can obtain an accurate knowledge of what the law really is in any particular district. There seems to be one guiding principle running through all this mass of legislation, and that is to allow *organized areas*, such as towns, villages and municipalities, to regulate their own matters, while with regard to *unorganized* territory one general law seems applicable. The reader is therefore cautioned against accepting all statements of the law as being literally true, and he must be careful to find out just what the local conditions are, and how they vary with the general law of the province at large.

Mischievous Animals.—Mischievous animals, such as dogs, are subject to control in rural districts, and consequently legislation will be found in each province.

Other Animals.—(See STRAY ANIMALS, ENTIRE ANIMALS, POUND DISTRICTS.)

II. Alberta.

Animals.—A domestic animal in this province has been defined as including any horse, mule, ass, neat cattle, sheep, pig, goat or goose.¹ An entire animal means any stallion over the age of fifteen months, or bull

¹ Alberta, 1920, ch. 33, sec. 2 (e).

or jack over the age of nine months, or ram or he-goat, or boar over the age of five months.² A stray animal means any domestic animal found on the premises of any person other than its owner.³ All domestic animals can run at large in this province, *outside municipalities*, so long as they do not come within the class of entire animals, mischievous animals, stray animals or other animals prohibited at large by *The Domestic Animals Act*, as given below. An animal is said to run at large when it is off the premises of its owner, and is not in charge of some person, or is not securely tethered or confined within any building or other enclosure or fence, whether such fence be lawful or not.⁴

Entire Animals.—No entire animal may run at large in the province save pure-bred bulls when it is so directed by the Minister of Agriculture under the provisions of part IV of *The Domestic Animals Act*. Entire animals, if found running at large within a pound district, are dealt with under the provisions of part II of the Act, and if found running at large outside a pound district are dealt with under the provisions of part IV of the Act.⁵ (See ENTIRE ANIMALS).

Mischievous Animals.—No mischievous animal is allowed to run at large in the province.⁶ "Mischievous animal" means any cross, dangerous, notoriously breachy or mischievous animal, any sheep which is shown to have trespassed on lands enclosed by a fence,

² Alberta, 1920, ch. 33, sec. 2 (f).

³ Alberta, 1920, ch. 33, sec. 2 (g).

⁴ Alberta, 1920, ch. 33, sec. 2 (a).

⁵ Alberta, 1920, ch. 33, sec. 4.

⁶ Alberta, 1920, ch. 33, sec. 5 (i).

whether lawful or not, and any hog.⁷ (See MISCHIEVOUS ANIMALS.)

Prohibited Animals.—No prohibited animal is allowed to run at large in any pound district in which it has been prohibited.⁸ “Prohibited animal” means any animal prohibited by Order-in-Council from running at large in a pound district.⁹ The Minister may by order published in the Gazette specify any part of an *extra-municipal area* and prohibit therein the running at large of cattle, horses or sheep. There is exempt from the operation of this order, one hundred cattle or the equivalent thereof, for every hundred and sixty acres of land owned within the specified part of the extra-municipal area by the actual owner of the cattle.¹⁰ (See POUND DISTRICTS).

Stray Animals.—Stray animals (other than an entire animal) which have strayed to premises not belonging to the owner and cannot be driven away therefrom are dealt with under Part III of the Act. If they belong to a class prohibited by Order-in-Council, and are within a pound district, they are dealt with under Part II of the Act.¹¹ (See STRAY ANIMALS).

Damage Actions.—No action founded on damage done by domestic animals lawfully running at large can be maintained, nor are domestic animals lawfully running at large liable to be distrained for causing damage to property unless, in either case, the damage was done upon land surrounded by a lawful fence.¹²

⁷ Alberta, 1920, ch. 33, sec. 2 (j).

⁸ Alberta, 1920, ch. 33, sec. 6.

⁹ Alberta, 1920, ch. 33, sec. 2.

¹⁰ Alberta, 1920, ch. 33, sec. 7.

¹¹ Alberta, 1920, ch. 33, sec. 8.

¹² Alberta, 1920, ch. 33, sec. 9.

This does not in any way affect the right of action in respect of damage caused by sheep given by Part VIII of the Act or the right to seize and impound animals in a pound district, or any right to demand or receive damages, or any other right given by the Act. Furthermore, the owner of any domestic animal which breaks into or enters upon any land enclosed by a lawful fence is liable to compensate the owner of such land for any damage done by such animal.¹³

III. Saskatchewan.

Animals.—Domestic animals in this province include any head of cattle, horses, sheep, goats or swine.¹ An estray animal is an animal which while lawfully running at large has strayed from its accustomed forage ground or has joined a band, herd or flock, other than that of its owner, from which it cannot be driven away, or an animal which has broken into premises enclosed by a lawful fence.² Animals are allowed to run at large in this province, *outside cities, towns and villages*, but only in accordance with the general law respecting stray animals. This law has recently been consolidated, and revised.³ An animal is said to run at large when it is not kept under control of the owner, either by being securely tethered or in direct and continuous charge of a herder or confined within a building or other enclosure or a fence, whether the same be lawful or not.⁴

¹³ Alberta, 1920, ch. 33, sec. 9.

¹ Saskatchewan, The Stray Animals Act, 1920, sec. 2 (1).

² Saskatchewan, 1920, ch. 47, sec. 2 (5).

³ Saskatchewan, The Stray Animals Act, 1920.

⁴ Saskatchewan, 1920, ch. 47, sec. 2 (15).

Entire Animals.—No stallion over one year old, and no bull over eight months old is, generally speaking, allowed to run at large in this province.⁵ Any such stallion or bull found running at large may be impounded by any person, or, if within territory to which the provisions of Part V of *The Stray Animals Act* applies at the time, may be regarded as an estray and captured and disposed of accordingly. (See STRAY ANIMALS).

Infected Animals.—No animal forming part of a herd in which any animal has died of or is suffering from blackleg is permitted to run at large or be with any public herd while the disease is present in the herd, or for thirty days after its apparent disappearance.⁶ The owner of an animal which has died of blackleg or other infectious or contagious disease must forthwith cause the carcass thereof to be burned or buried under a covering of at least 3 feet of earth.⁷ The skin must not be taken off an animal which has died of blackleg or other infectious or contagious disease. Furthermore, no animal which is suffering from lumpjaw (actinomycosis) is permitted to run at large or with any public herd.⁸

Other Animals.—(See POUND DISTRICTS, STRAY ANIMALS, MISCHIEVOUS ANIMALS, HERD DISTRICTS).

IV. Manitoba.⁸

Animals.—The law respecting animals running at large in this province depends on whether it is within

⁵ Saskatchewan, 1920, ch. 47, sec. 55 (1).

⁶ Saskatchewan, 1920, ch. 47, sec. 56.

⁷ Saskatchewan, 1920, ch. 47, sec. 56 (2).

⁸ Saskatchewan, 1920, ch. 47, sec. 57.

unorganized territory or otherwise. Generally speaking, it is not lawful to allow the following animals to run at large: (1) Stallions, of one year old or upwards, at any time of the year; (2) bulls, over nine months old, at any time of the year; (3) rams, over four months old, from the first day of August to the first day of April; (4) boars, over four months old, at any time of the year.¹ However, there are special provisions with regard to unorganized territory and stray animals. The reader should therefore be careful to ascertain the nature of the district within which he resides before coming to any conclusion as to which particular law applies. As a matter of precaution, the reader should consult the local authorities, as it is very difficult to give an accurate statement which will apply for all time and for all circumstances.

Stray and Other Animals.— (See STRAY ANIMALS, MISCHIEVOUS ANIMALS, SHEEP, ETC.).

DOWER.

I. Alberta.

Act.—The dower law of this province is contained in The Dower Act, 1917.² The statute fully sets out what dower rights a woman has in her husband's property. It really seeks to protect the homestead by preventing a disposition by the husband without the consent of the wife.

Homestead.—The expression "homestead," where mentioned in the dower law, means: (1) Land in a city,

¹ Manitoba. Animals Act, R.S.M. 1918, ch. 7.

² Alberta. Annual Statutes, 1917, ch. 14.

town or village consisting of not more than four adjoining lots in one block, as shown on a plan duly registered in the proper registry office, on which the house occupied by the owner, as his residence, is situated. (2) Lands (other than the above) on which the house occupied by the owner as his residence is situated, consisting of not more than one-quarter section.³

Disposing of Homestead.—Every disposition by act *inter vivos* of the homestead of any married man whereby the interest of such married man vests in any other person, at any time during the life of such married man or during the life of such married man's wife, living at the date of such disposition, is null and void, in so far as it may affect the interest of the said wife in such homestead, unless made with the consent *in writing* of the wife.⁴ Every disposition by *will* of such married man and every devolution upon his death intestate, is, as regards the homestead of such married man, subject and postponed to an estate for the life of such married man's wife, this being especially vested in the surviving wife.⁵ Where, however, at the time of the death of a married man intestate, with respect to his homestead, his wife is living apart from her husband under circumstances disentitling her to alimony, no such life estate vests in the wife, nor does she take any benefit under the dower law.⁶ In order that no confusion shall arise as to what is to be considered a "disposition" of the homestead, a definition has been inserted in the dower law, and under this definition a

³ Alberta. Annual Statutes, 1917, ch 14, sec 2.

⁴ Alberta. Annual Statutes, 1919, ch 40, sec. 1.

⁵ Alberta. Annual Statutes, 1917, ch. 14, sec. 4 (1).

⁶ Alberta. Annual Statutes, 1918, ch. 4, sec. 53.

“disposition” means any disposition by act *inter vivos* and requiring to be executed by the owner of the land disposed of, and includes every transfer, agreement of sale, lease or other instrument intended to convey or transfer any interest in land, and every mortgage or incumbrance intended to charge land with the payment of a sum of money (and requiring to be so executed), and every devise or other disposition made by will.⁷ Agreements in writing before 1st May, 1917, are not affected by these provisions.⁸

Changing Residence.—The residence of a married man is not considered to have changed unless such change of residence is consented to *in writing* by the wife of such married man.⁹

Nature of Wife's Consent.—Any consent required for the disposition *inter vivos* of the homestead, or for the purpose of establishing a change of residence as above, must, whenever any instrument by which such disposition is effected is produced for registration under the provisions of *The Land Titles Act*, be produced and registered therewith. Such consent may be embodied in or endorsed upon the instrument effecting such disposition. The execution by the wife of any such disposition constitutes a consent. The registrar of land titles, before registering any such disposition (not purporting to be consented to) must require an affidavit of the owner, supported by such other evidence by affidavit or otherwise as the registrar may require. If the disposition is executed under a power of attorney the

⁷ Alberta. Annual Statutes, 1919, ch. 40, sec. 1.

⁸ Alberta. Annual Statutes, 1919, ch. 40, sec. 6.

⁹ Alberta. Annual Statutes, 1917, ch. 14, sec. 5.

party executing the same may, if he is acquainted with the facts, make the affidavit.¹⁰

How Acknowledgment Made by Wife.—When a wife executes any instrument concerning any disposition or consent she acknowledges the same, apart from her husband, to have been executed by her of her own free will and accord and without any compulsion on the part of her husband. The acknowledgment may be made before any person authorized to take proof of the execution of instruments, and a certificate is endorsed or attached to the instrument.¹¹ Where a husband and his wife are living apart, a judge of the Supreme Court may, by order, dispense with the consent of the wife to any proposed disposition if in the opinion of such judge it seems fair and reasonable under the circumstances so to do.¹² Where the wife is a lunatic or person of unsound mind, notice of every such application is served in the manner provided by the Rules of the Supreme Court for the service of statements of claim on such persons.¹³ Upon such order being filed with the registrar of land titles and upon payment of the proper fees the registrar registers the transfer, agreement, lease, mortgage, encumbrance or other instrument.¹⁴

Wives Under Age.—The dower law applies to all wives, whether or not they have attained the age of 21 years, a married woman of whatever age being deemed to be *sui juris*.¹⁵

10 Alberta. Annual Statutes, 1919, ch. 40, sec. 3.

11 Alberta. Annual Statutes, 1919, ch. 40, sec. 4.

12 Alberta. Annual Statutes, 1919, ch. 40, sec. 5.

13 Alberta. Annual Statutes, 1918, ch. 4, sec. 53.

14 Alberta. Annual Statutes, 1918, ch. 4, sec. 53.

15 Alberta. Annual Statutes, 1918, ch. 4, sec. 53.

Implied Consent.—When any woman has executed a contract for the sale of property, or joined in the execution thereof with her husband, or given her consent in writing to the execution thereof, and the consideration under such contract has been totally or partly performed by the purchaser, she is, in the absence of fraud on the part of such purchaser, deemed to have consented to such sale, in accordance with the provisions of the dower law, and when any subsequent disposition by way of transfer of such property is presented for registration under *The Land Titles Act*, the consent to previously given, or the agreement so executed, is, if produced and filed with the registrar, sufficient.¹⁶

II. Saskatchewan.

Act.—There is no statute in this province which deals with dower. In the place of the dower law there is an enactment regulating the sale of the homestead. This enactment is similar, in effect, to the dower laws in other provinces. The dower law in other provinces prevents the disposition of the homestead without the consent of the wife; and in the Province of Saskatchewan the homestead law has apparently that idea in view. Its provisions are given below. The Act is *The Homesteads Act*, 1920.¹ This law applies to all wives, whether they have attained the age of 21 years or not, and, as it now reads, came into force on 1st March, 1920.

Homestead.—A homestead has the same meaning as it has in the exemption law. It includes, therefore, not

¹⁶ Alberta. Annual Statutes, 1919, ch 40, sec. 7.

¹ Saskatchewan. Annual Statutes, 1920, ch. 66.

more than 160 acres of land, in the case of a farm, or, in other cases, the house and buildings occupied by the husband, and the lot or lots on which the same are situate.² However, under the provisions of the homestead law, the house and lot is not restricted to \$3,000 in value, as it is under the exemption law.³

Disposing of the Homestead.—Every transfer, agreement of sale, lease or other instrument intended to convey or transfer any interest in a homestead, and every mortgage or incumbrance intended to charge a homestead with the payment of a sum of money, *must be signed by the owner and his wife* (if he has a wife), and she must appear before a District Court judge, local registrar of the Court of King's Bench, registrar of land titles or other respective deputies or a justice of the peace, or before a solicitor (other than the solicitor who prepared the document, his partner or clerk), and upon being examined separate and apart from her husband, she must acknowledge that she understands her rights in the homestead.⁴ She must sign the instrument of her own free will and consent, without compulsion on the part of her husband.⁵ Where the examination is taken outside of Saskatchewan, the examination must be taken before a person authorized to take affidavits for the purposes of the land titles law.⁶ Where the wife of the owner is living apart from her husband under circumstances disentitling her to alimony or as a lunatic or person of unsound mind, a judge of the

² Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 2 (9).

³ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 2.

⁴ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 3 (1).

⁵ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 3 (1).

⁶ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 3 (1).

Court of King's Bench may, on the application of any person interested, by order to be made in a summary way and upon such evidence as to him may seem meet, dispense with the signature and acknowledgment of the wife; upon such terms and conditions as may appear just.⁷ Where the wife is a lunatic or person of unsound mind, notice of every such application must be served in the manner provided by the rules of the Court of King's Bench for the service of a writ of summons on a lunatic or person of unsound mind.⁸ Upon order being filed with the registrar of land titles, and upon payment of the proper fees, the registrar registers the transfer, agreement, lease, mortgage, incumbrance or other instrument.⁹

Declaration of Wife.—Every transfer, agreement, lease, mortgage, incumbrance or other instrument must contain a declaration by the wife. The declaration may be annexed to or endorsed on the instrument, showing that she has executed the same for the purpose of relinquishing her rights to the homestead.¹⁰

Certificate by Officer.—There must be annexed to or endorsed on the transfer, agreement, lease, mortgage, incumbrance or other instrument, a certificate, signed by the officer taking the same, to the effect that he has examined the wife separate and apart from her husband, that she understands her rights in the homestead, and that she signs such instrument of her own free will and consent and without any compulsion on the part of her husband.¹¹

⁷ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 3 (2).

⁸ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 3 (3).

⁹ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 3 (4).

¹⁰ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 4.

¹¹ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 5.

Transfer Otherwise Executed.—Every transfer, agreement of sale, lease or other instrument intended to convey or transfer an interest in land, and every mortgage or incumbrance, which does not comply with the above must be accompanied by an affidavit of the maker, either that the land described in such instrument is not his homestead, or that he has no wife. If the party executing such instrument is acting under a power of attorney, he may, if acquainted with the facts, make the said affidavit in lieu of his principal. No transferee, mortgagee, incumbrancee, lessee or other person acquiring an interest under such instrument is bound to make inquiry as to the truthfulness of the facts alleged in the affidavit, and upon delivery of an instrument purporting to be completed in accordance with the law the same becomes valid and binding according to its tenor, save in cases of fraud or knowledge.¹²

Wife May File Caveat.—The wife of the owner of a homestead may file a caveat to protect her rights in the same. Such caveat is filed free of charge.¹³

Assignment for Benefit of Creditors.—The rights in her husband's homestead conferred upon a wife cease upon the filing in the proper land titles office of an assignment for the general benefit of the husband's creditors, unless within thirty days after the mailing by the registrar of a notice she files a caveat against the land claimed as a homestead. Every assignment for the benefit of creditors must, however, be accom-

¹² Saskatchewan Annual Statutes, 1919-20, ch. 66, sec. 6, 8.

¹³ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 7 (1).

panied by an affidavit of the assignor stating whether or not the assignor has a wife, and if he has a wife, giving her name and address. If, upon the filing of such an assignment, it appears from the accompanying affidavit that the assignor has a wife, the registrar notifies the wife by registered letter of such filing and that her rights in her husband's homestead will cease at the expiration of thirty days from the mailing of the notice unless in the meantime she files a caveat against the land claimed as a homestead.¹⁴

Fraud by Transferee.—Knowledge on the part of the transferee, mortgagee, incumbrancee or lessee that the land described in such instrument is the homestead of the party making the same, and that he has a wife who is not a party thereto, is fraud, and in an action by the wife any such instrument or the certificate of title issued thereon to any person affected by such fraud may be set aside and cancelled.¹⁵

Widow's Rights Preserved.—On the death of the owner of a homestead the same vests in his personal representative (subject to the exemptions law). During the time the homestead is exempt from seizure under execution, and notwithstanding any provision in the last will and testament of the owner, the homestead law applies as if the personal representative were the owner and the widow (if the owner have left a widow) were the wife of such owner, and the declaration and certificate to accompany the transfer, lease, mortgage, incumbrance or other instrument, as the case may be,

¹⁴ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 7.

¹⁵ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 8.

must be to the same effect as the declaration and certificate provided in other cases.¹⁶

Sales of Land to Railway Companies.—The homestead law does not prevent sales of land to railway companies for purposes of construction, maintenance or operation.¹⁷

Certain Instruments Validated.—No transfer, mortgage or incumbrance, taken before 14th March, 1916, are considered invalid as against a transferee, mortgagee or incumbrancee, their representatives, successors, or assigns, in good faith and without knowledge that the homestead law has not been complied with.¹⁸

III. MANITOBA.

Act.—The dower law of this province is regulated by *The Dower Act*, 1919.¹ This is a recent statute setting out clearly and distinctly just what dower a widow has in the estate of her deceased husband. While the husband is living the wife is, in the eyes of the law, fully cared for, but after his decease it is often otherwise. Protection, therefore, has been given, and the husband, during his lifetime, is prevented from disposing of the home which has been gathered together. The dower law attempts to prevent the selling of the "homestead" by the husband without the consent of the wife.

¹⁶ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 9.

¹⁷ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 11.

¹⁸ Saskatchewan. Annual Statutes, 1919-20, ch. 66, sec. 10.

¹ Manitoba. Annual Statutes, 1919, ch. 26.

Definitions.—A good many legal expressions are used in the statutes which regulate the dower law, and some of these are here given for the reader's guidance. "Net real and personal property" means all the real and personal property wheresoever situate (including the homestead) belonging to a testator at the time of his death, and the proceeds or realizations of every part thereof, after all debts, funeral and testamentary expenses, probate fees, succession duties, and inheritance taxes or other charges of a similar nature, and costs of administration, have been paid, provided for or taken into account.² "Net estate" means all the "net real and personal proeprty" of a testator, together with all moneys paid or payable after the testator's death under or by virtue of insurance policies on the life of the testator to or for the benefit of the wife or any child of the testator, and together with any property owned at the time of the testator's death by the wife for her own use or then held in trust ~~for her~~, and which is property (or the proceeds or investments of property) which the testator had during his life after marriage conveyed to the wife or for her benefit as a gift or by way of advancement.³

Homestead.—In order that there should be no difficulty as to what is to be considered the homestead, and what is not, a definition has been set out in the statute. The expression "homestead," where used in the dower law, means: (1) A dwelling-house in a city, town or village occupied by the owner as his home, and the lands and premises appurtenant thereto, consisting of

² Manitoba. Annual Statutes, 1919, ch. 26, sec. 2 (7).

³ Manitoba. Annual Statutes, 1919, ch. 26., sec. 2 (8).

not more than six lots or one block (where said block is not subdivided into lots) as shown on a plan duly registered in the proper land titles office or registry office, and not more than one acre where the land is described otherwise than by registered plan; (2) a dwelling-house *outside* a city, town or village occupied by the owner thereof as his home, and the lands and premises appurtenant thereto, consisting of not more than 320 acres.⁴

Disposing of Homestead.—The disposition of the homestead without the written consent of the wife is invalid. It is especially provided in the dower law that every disposition by Act *inter vivos* of any interest in the homestead of any married man shall be invalid and ineffective, in so far as such homestead is concerned, unless and until his wife consents in writing to such disposition or unless she has released in favour of her husband all her rights in such homestead.⁵ The word "disposition" used above has been given a special meaning. "Disposition" includes every grant, transfer, sale, agreement of sale, mortgage (legal or equitable), encumbrance, charge, lien, lease for more than three years, and every other disposition of the homestead by act *inter vivos* and every devise or other disposition made by will. It does not include a registered certificate of judgment within the meaning of *The Judgments Act*, or the lien or charge on lands created by the recording or registration of any such certificate of judgment; or a lease made for a period not exceeding three years, or a me-

⁴ Manitoba. Annual Statutes, 1919, ch. 26, sec. 2 (1).

⁵ Manitoba. Annual Statutes, 1919, ch. 26, sec. 3.

chanics' lien under the provisions of *The Mechanics' and Wage Earners' Lien Act*.⁶

Consent of Wife to Disposition of Homestead.—Every disposition by act *inter vivos* of any interest in the homestead of any married man is invalid and ineffective, in so far as such homestead is concerned, unless and until his wife consents in writing to such disposition, or unless she has released in favour of her husband all her rights in such homestead.⁷

Consent to Change of Home.—The homestead of a married man continues to be his homestead notwithstanding that such married man may have changed his home unless and until the wife consents in writing to such change of home, or releases in favour of her husband all her rights in such homestead, or until such homestead is sold in accordance with the dower law. The rights of a married woman in respect of a homestead, in no case, apply to more than one homestead at any one time. In case the home of a married man is changed without the consent in writing of the wife to such change, or without such release being given, no dwelling house subsequently occupied by the married man as his home and lands and premises appurtenant thereto becomes the homestead unless and until such consent in writing to such change is given or such release is given or until the former homestead is sold in accordance with the dower law.⁸ Any consent required for the disposition by act *inter vivos* of a homestead or for the purpose of evidencing a change of

⁶ Manitoba. Annual Statutes, 1919, ch. 26, sec. 2 (2).

⁷ Manitoba. Annual Statutes, 1919, ch. 26, sec. 3.

⁸ Manitoba. Annual Statutes, 1919, ch. 26, sec. 4.

home as affecting a homestead, must, in order that any disposition of the homestead may be effectual, be produced and filed in the proper land titles office or registry office in that behalf. Any such consent may be embodied in or endorsed upon the instrument or document affecting the disposition, or may be a separate document, provided that it sufficiently identifies the land and premises intended to be affected by such consent, and in case of a disposition sufficiently identifies such disposition.⁹

Release of Dower Rights.—Any wife may at any time during her life, for valuable consideration, in writing, release in favour of her husband all her rights in respect of any particular homestead described in such release, and thereafter the wife has no rights as against such homestead so released, and the same ceases to be a homestead for the purposes of the dower law. Any consent or release may be executed on behalf of a wife by her attorney duly appointed by power of attorney under the hand and seal of the wife and expressly authorized by such power of attorney to execute any consent or release. However, no husband has power to execute, as attorney for his own wife, any such consent or release. When a wife executes in person any consent or release she must acknowledge, apart from her husband, that the same was voluntarily executed by her of her own free will and accord and without any compulsion on the part of her husband, and that she is aware of the nature and effect of the same, and also, in the case of release, for valuable consideration, that

⁹ Manitoba. Annual Statutes, 1919, ch 26, sec. 5.

she has received valuable consideration for the giving of the release.¹⁰ When the wife appoints an attorney to give a consent or release she must at the time of executing the power of attorney acknowledge, apart from her husband, that the same was voluntarily executed by her of her own free will and accord and without any compulsion on the part of her husband, and that she is aware of the nature and effect of the same. Any such acknowledgment may be made before a person authorized to take affidavits as to the execution of instruments, and a certificate must be endorsed on or attached to any consent or release or power of attorney executed by any wife. Every certificate of acknowledgment duly signed by any authorized person as aforesaid is conclusive evidence of the truth of the statements therein contained and of the fact that the woman who executed such consent or release or power of attorney as the case may be was at the date of such certificate the wife of the man therein named (and in the case of a release is also conclusive evidence that the wife received valuable consideration for the giving of the said release) except as against any person who at the time when he acquired any alleged right, title or interest in the lands thereby affected had actual knowledge of the untruth of the said statements or any of them or that such woman was not at such date the wife of the man named in such certificate (and in case of a release, had actual knowledge that valuable consideration had not been given).

How Consent is Proved.—Proof as to whether any person who executes any document or instrument

¹⁰ Manitoba. Annual Statutes, 1919, ch. 26, sec. 7, 8.

affecting land is or is not married, or as to whether the woman who consents to any disposition is the wife of such person, and as to whether such land or any part thereof is or is not his homestead, may be by affidavit, or statutory declaration, made by such person or his attorney or agent or if the land be under the new system may be by such other evidence or proof as is satisfactory to the district registrar of the district in which the land is situate. Any such affidavit or statutory declaration may be made before any person authorized to take an acknowledgment. Where proof has been taken by affidavit or statutory declaration, no person, acquiring any right, title or interest in any land under or by virtue of any document or instrument in respect of which such affidavit or statutory declaration has been made, and there is no district registrar, is bound to make enquiry as to the truth of any of the matters therein alleged as facts. No such document or instruments are invalid except as against any person who at the time when he acquired any alleged right, title or interest in the lands therein mentioned had actual knowledge of the untruth of any of such matters, or unless the transaction was tainted with fraud in which such person participated or colluded. The onus of proving such actual knowledge or of proving such fraud is upon the person alleging same.¹¹

Execution of Documents by Attorney.—Where a consent or release is executed by any attorney for the wife duly appointed, no such acknowledgment or certificate of acknowledgment is necessary, but the attorney's

¹¹ Manitoba. Annual Statutes, 1919, ch. 26, sec. 8.

signature to such consent or release must be verified by the usual affidavit of execution.

Consent in Case of a Mortgage.—No consent by a married woman to any document or instrument intended to have the effect of a mortgage, encumbrance, charge, lien or other security upon a homestead or any part thereof operates to any greater extent than is necessary to give full effect to the rights of the mortgagee, encumbrancee, chargee or grantee under such document or instrument.. Whenever a homestead or any part thereof is sold under any mortgage, encumbrance, charge, lien or other security or under any legal process based thereon, the wife of the owner of the homestead is entitled to a one-half share of any surplus of the purchase money arising from such sale after satisfaction in full of the claim and costs of the mortgagee, encumbrancee, chargee or grantee and of any other person having any right, title or interest in the homestead in priority to any right of the wife.¹²

Court's Power of Consent.—Where the wife of the owner of a homestead: (1) Has been living apart from him for two years or more; or (2) is a lunatic or of unsound mind, and such owner is desirous of making a disposition of the homestead or any part thereof free from his wife's rights, a judge of the County Court for the County Court division or judicial district in which said land is situate may, on application by any person interested, by an order to be made in a summary way and upon such evidence as to him may seem meet, and upon notice to be served upon the wife, un-

¹² Manitoba. Annual Statutes, 1919, ch. 26, sec. 10.

less the judge otherwise directs, dispense with the consent of the wife upon such terms and conditions as may appear just.¹³

The judge may in his discretion by the order dispensing with the consent of the wife direct that an amount, to be fixed by him, be paid to or applied for the wife's benefit as he may deem best, or remain a charge upon the said homestead, or be otherwise secured for the benefit of the wife. In case it is shown upon such application that the husband has made a provision for his wife by marriage settlement, gift *inter vivos* or otherwise, the judge may take such provision into account in fixing the terms and conditions of the said order. After the making of the order a disposition of the homestead or any part thereof by the husband is (subject to the terms and conditions mentioned in the order) valid and effectual without the wife's consent. Where the wife is a lunatic or a person of unsound mind, notice of application must be served upon the person, and in the manner provided for by the rules and practice of the Court of King's Bench for Manitoba for service upon a lunatic or person of unsound mind who is a defendant to an action.¹⁴

Widow's Rights in Homestead.—Upon the death of a married man whose wife survives him, the wife is entitled to an estate for her natural life in his homestead as fully and effectually and to the same effect and under the same conditions as if he had left her by will such life estate in the homestead, and every disposi-

¹³ Manitoba. Annual Statutes, 1919, ch. 26, sec. 11.

¹⁴ Manitoba. Annual Statutes, 1919, ch. 26, sec. 11.

tion by will of a married man of homestead, shall be subject to such life estate of the wife. This law is retroactive, and came into force in its present form on the 1st day of September, A.D., 1918, and has been continuously in force since that date.¹⁵

Widow's Rights in Property of Husband.—Notwithstanding anything contained in *The Manitoba Wills Act*, the widow of every testator, who by his will has not left her property or otherwise provided for her to the value of at least one-third of the value of his net real and personal property, is entitled to receive from his executor such share of his net real and personal property as, together with all moneys paid or payable under or by virtue of any insurance policies on the life of the testator to her or for her benefit and for her own use, and together with any property owned at the time of the testator's death by her for her own use or then held in trust for her, and which is property (or the proceeds or investments of property) which the testator had during his life after marriage conveyed to her or for her benefit as a gift or by way of advancement, equal, in value, one-third of the testator's net estate, and in addition, is entitled to the life estate in her husband's homestead as set out above.¹⁶ This, however, does not apply where the testator has made special provision as set out in Act.¹⁷

Disputes as to Value of Property.—All questions in dispute or of doubt as to the value or amount of the "net estate" or of the "net real and personal prop-

¹⁵ Manitoba. Annual Statutes, 1919, ch. 26, sec. 12.

¹⁶ Manitoba. Annual Statutes, 1919, ch. 26, sec. 13.

¹⁷ Manitoba. Annual Statutes, 1919, ch. 26, sec. 14.

erty" of a testator is determined, upon summary application made by any person interested, by the judge of the Surrogate Court, and the determination of the said judge as set out in any order made by him is final and conclusive and binding upon all persons. Notice of any such application is given to such person or persons and in such manner as the judge may direct.

Election by Widow.—The widow is bound to elect within three months after notice served upon her by the executor to whom probate has been granted in this province, requiring her to make such election, or (if she herself is an executrix) within three months after probate of the will in this province, whether she desires to take under *The Dower Act* or under the will, and if within such time no election is made by her, or if within such time she elects to take under the will, she is considered to be a consenting party to the provisions of the will, and the will is, in all respects, in full force and effect and the provisions thereof be carried out in the same manner and to the like effect as if the Dower law had not been passed, and the widow then has no rights except as given her under the will.¹⁸ Any election made by a widow must be in writing signed by the widow. If election is to take under the will, the form is as follows:—"In the matter of the estate of, I hereby elect to take under the provisions of my husband's will. A.B." If the election is to take under the Dower Act, the form is as follows:—"In the matter of the estate of,

¹⁸ Manitoba. Annual Statutes, 1919, ch. 26, sec. 16.

I hereby elect to take under the provisions of The Dower Act, and not under my husband's will. A.B."

Certificate of Election by Widow.—Any such election must be filed, within the above time, in the Surrogate Court, and the clerk of the Surrogate Court gives to the person applying therefor, on payment of a fee of one dollar, a certificate, under his hand and the seal of the court, showing what election, if any, has been made. Any widow who fails to make and file her election within two years from the death of her husband shall, whether she has been served with notice to elect or not, be deemed to have elected to take under the provisions of her husband's will and not under the provisions of the dower law. Where a widow has failed to elect in writing within the time above stated the executor or any person interested in the estate of the testator may apply to the judge of the Surrogate Court for an order declaring that the widow has failed to elect. Such order may be made by the judge upon such evidence as to him may seem meet, and either ex-parte or after notice has been served upon the widow or any such other person and in such manner as the judge may direct. Any such order is final and binding upon the widow and all persons interested. The production of any such certificate is sufficient evidence of the facts therein stated, and the production of any such order (or of a certified copy thereof under the hand of the said clerk and the seal of the court) is sufficient evidence that the widow has made no election within the time mentioned. Should any dispute or doubt arise as to whether a widow has duly elected or failed to elect

to take under the will or under the provisions of the dower law, the same is determined upon summary application made by any person interested, by the judge of the Surrogate Court, and the determination of the said judge as set out in any order made by him is final and conclusive and binding upon all persons. Notice of any such application is given to such person or persons and in such manner as the judge may direct.

Effect of Electing to Take Under Dower Law.—If a widow elects to take under the provisions of *The Dower Act* and not under her husband's will, in such event every bequest, gift or devise made or given to her or for her benefit in the will is void and of no effect, and the will is in all respects treated and construed as if no such bequest, gift or devise were contained therein. Where by his will a testator has made a declaration or appropriation of any policy of insurance on his life for the benefit of his wife, such declaration or appropriation is not affected or prejudiced if the widow elects to take under the Dower Act and not under the will, and she is entitled, notwithstanding such election, to receive the insurance moneys pursuant to such declaration or appropriation.¹⁹

Widow's Share Considered a Debt Against Estate.—In any case where a widow becomes entitled to receive from her husband's executor the share of his net real and personal property provided for in the dower law such share (in so far as the beneficiaries under the will are concerned) is considered and construed as if the

¹⁹ Manitoba. 1919, ch. 26. sec. 17, 18.

same were a debt of the testator at the time of his death, and is payable next after all the debts of the deceased, and has priority over all bequests, gifts and devises contained in the will.²⁰

Husband and Wife Living Apart.—If any wife at the time of her husband's death had left her husband with the intention of living separate and apart from him she has no rights under the dower law either to a life estate in the homestead or to any share in her husband's estate unless a judge of the Surrogate Court otherwise directs by order. Should any dispute or doubt arise as to whether any wife at the time of her husband's death had left her husband with the intention of living separate and apart from him, the same is determined by order of the judge. Any order may be made in a summary manner, on the application of the widow or of any person interested in the estate or of the executor or administrator of the husband, upon such evidence as to the judge may seem meet, and upon notice served upon such person or persons and in such manner as the judge may direct. The production of any such order or of a certified copy, under the hand of the said judge and the seal of the court, is sufficient evidence as to the matters therein determined. On any such application the judge is entitled for his own use to a fee of five dollars, and no other fee or charge of any kind is payable in respect thereof to the court or to the said judge. The judge has the same discretionary power in regard to the costs of any such application as if the said application were an action in the County Court. Even although the widow fails

²⁰ Manitoba. 1919, ch. 26, sec. 19.

to succeed in any such application, the judge has power, in his discretion, to direct the costs of such widow to be paid out of the estate of the deceased. Any person interested may appeal from any order made by the judge to the Court of Appeal, such appeal to be taken in the same manner and subject to the same rules of law and procedure as an appeal from a decision or judgment of a County Court judge.²¹

Husband's Rights in Wife's Property.—Where a married woman owns the homestead her husband has the same rights as a married woman has in respect of the homestead owned by her husband, and the husband's consent to any disposition of the homestead or any part thereof or consent to a change of home where the homestead is owned by the wife is required in like manner as the consent of a married woman where the homestead is owned by the husband. When a husband executes any consent or release, no acknowledgment or certificate of acknowledgment is, however, necessary, but the signature of the husband to such consent or release, verified by the usual affidavit of execution, is sufficient. Every married man, on the death of his wife, is entitled to the same interest in his wife's estate as a married woman becomes entitled to in her husband's estate, on his death.²²

EXEMPTIONS.

I. Alberta.

Exemptions.—The following real and personal property of an execution debtor and his family is free from

²¹ Manitoba. 1919, ch. 26, sec. 20.

²² Manitoba. 1919, ch. 26, sec. 21.

seizure by virtue of all writs of execution, namely: (1) The necessary and ordinary clothing of himself and his family; (2) furniture, household furnishings, dairy utensils, swine and poultry to the extent of five hundred dollars; (3) the necessary food for the family of the execution debtor during six months, which may include grain and flour or vegetables and meat, either prepared for use or on foot; (4) three oxen, horses or mules, or any three of them, six cows, six sheep, three pigs and fifty domestic fowls, besides the animals the execution debtor may have chosen to keep for food purposes and food for the same for the months of November, December, January, February, March and April, or for such of these months or portions thereof as may follow the date of seizure, provided such seizure be made between the first day of August and the thirteenth day of April next ensuing; (5) the harness necessary for three animals, one wagon or two carts, one mower or cradle and scythe, one breaking plough, one cross plough, one set of harrows, one horse rake, one sewing machine, one reaper or binder, one set of sleighs and one seed drill; (6) the books of a professional man; (7) the tools and necessary implements to the extent of two hundred dollars used by the execution debtor in the practice of his trade or profession; (8) seed grain sufficient to seed all his land under cultivation, not exceeding eighty acres, at the rate of two bushels per acre, defendant to have choice of seed, and fourteen bushels of potatoes; (9) the homestead, provided the same be not more than one hundred and sixty acres; in case it be more, the surplus may be sold subject to any lien or incumbrance thereon; (10) the

house and buildings occupied by the execution debtor, and also the lot or lots on which the same are situate according to the registered plan of the same, to the extent of fifteen hundred dollars.

Debtor's Choice.—The execution debtor is entitled to a choice from the greater quantity of the same kind of articles which are exempted from seizure.

Articles Forming Consideration of Judgment.—Articles (except for food, clothing and bedding of the execution debtor and his family), the price of which forms the subject matter of the judgment upon which the execution is issued, are not exempt from seizure.

Rights of Family of Deceased Debtor.—In case of the death of the execution debtor, his property exempt from seizure under execution is exempt from seizure under execution against his personal representative if the said property is in the use and enjoyment of the widow and children or widow or children of the deceased and is necessary for the maintenance and support of said widow and children or any of them.

Absconding Debtors.—The above provisions giving exemptions do not apply to any case where the debtor has absconded or is about to abscond, leaving no wife or family behind.

II. Saskatchewan.

Act.—The exemption law in this province is regulated by *The Exemptions Act*, 1919.¹ This statute deals only with exemptions from seizure and sale under writs of execution, and under chattel mortgages.

¹ Saskatchewan. Annual Statutes, 1918-19, ch. 24.

Exemptions.—The following real and personal property of an execution debtor and his family is free from seizure under all writs of execution:—(1) The necessary and ordinary clothing of himself and his family. (2) Furniture, household furnishings and dairy utensils, to the extent of \$500. (3) The necessary food for the family of the execution debtor during six months, which may include grain, flour, vegetables and meat, either prepared for use or on foot. (4) Four oxen, horses or mules, or any four of them, six cows, six sheep, four pigs and fifty domestic fowls, besides the animals the execution debtor may have chosen to keep for food purposes, and food for the same for the months of November, December, January, February, March and April, or for such of these months or portions thereof as may follow the date of seizure provided such seizure be made between 1st August and 30th April next ensuing. (5) The harness necessary for four animals, one wagon or two carts, one mower or cradle and scythe, one breaking plough, one cross plough, one set of harrows, one horse rake, one sewing machine, one reaper or binder, one set of sleighs and one seed drill. (6) The books of a professional man. (7) The tools and necessary implements to the extent of \$200 used by the execution debtor in the practice of his trade or profession. (8) Seed grain sufficient to sow all his land under cultivation, not exceeding 160 acres, at the rate of two bushels per acre, defendant to have choice of seed, and fourteen bushels of potatoes for planting. (9) The homestead, provided the same be not more than 160 acres; in case it be more, the surplus may be sold, subject to any lien or incumbrance thereon.

(10) The house and buildings occupied by the execution debtor, and also the lot or lots on which the same are situate, according to the registered plan of the same, to the extent of \$3,000.¹

What is Not Exempted.—The exemption law does not exempt from seizure any article (except for food, clothing and bedding, of the execution debtor and his family), the price of which forms the subject matter of the judgment upon which the execution is issued.²

Rights of Deceased Debtor's Family.—In the case of the death of an execution debtor, or of a mortgagor, his property exempt from seizure under execution or under the mortgage, is also exempt as against his personal representative if the property is in the use and enjoyment of the widow and children or widow or children of the deceased, and is necessary for the maintenance and support of the widow and children or any of them.³

Right of Selection.—The debtor or mortgagor, as the case may be, his widow or family, or, in the case of infants, their guardian, may select from a greater quantity of the same kind of chattels, the chattels exempt from seizure.⁴

Absconding Debtors.—The exemption law does not favour absconding debtors, and where a debtor or mortgagor has absconded or is about to abscond from

¹ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 2, re-enacting R.S.S., 1909, ch. 47, sec. 2.

² Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 5 (1).

³ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 6.

⁴ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 7.

Saskatchewan, leaving no wife or family behind, the general law respecting exemptions does not apply.⁵

Alimony Orders.—The exemption law does not operate in favour of an execution debtor in respect of executions issued upon judgments or orders for payment of alimony. There is, therefore, no exemption in such cases.⁶

Chattel Mortgages.—Any person who executes a chattel mortgage on any of the chattels mentioned in clause (4) or (5), above mentioned, has, in case of seizure under the mortgage, a right to claim as exempt from such seizure and from sale, any of such chattels covered by the mortgage which cannot be so served or sold without depriving the mortgagor of the number, or part of the number, of the kind of such chattels which by virtue of clause (4) or (5) he is allowed to hold free from seizure under execution.⁷ In the event of a dispute arising as to the mortgagor's right to have any chattels, covered by a chattel mortgage, exempted from seizure and sale under mortgage, the rules of court as to interpleader apply and proceedings are taken in the District Court of the judicial district in which the chattels are situate.⁸ Except for the food, clothing and bedding of the mortgagor and his family, the exemption law does not exempt from seizure and sale under a chattel mortgage any article, *the price of which* forms the consideration for which the mortgage was given.⁹ Furthermore, the exemption law does not

⁵ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 8.

⁶ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 8.

⁷ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 3.

⁸ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 4.

⁹ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 5 (2).

apply to chattel mortgages executed prior to 24th June, 1915.¹⁰

III. Manitoba.

Act.—The exemption law of Manitoba is contained in *The Executions Act*, R.S.M., c. 66. Under the provisions of this Act certain real and personal property is exempt from seizure under a writ of execution.

Exemptions.—The following personal and real estate is made free from seizure by virtue of all writs of execution, namely: (1) The bed and bedding in the common use of the judgment debtor and his family, and also his household furniture and effects, not exceeding, in value, \$500; (2) the necessary and ordinary clothing of the judgment debtor and his family, and the necessary fuel for the judgment debtor and his family for six months; (3) 12 volumes of books, the books of a professional man, one axe, one saw, one gun, six traps; (4) the necessary food for the judgment debtor and his family during eleven months, but this exemption only applies to such food and provisions as may be in his possession at the time of seizure; (5) three horses, mules or oxen, six cows, ten sheep, ten pigs, fifty fowls, and food for the same during eleven months; "horses" includes colts and fillies, and "oxen" and "cows" includes steers, calves, and heifers (the exemption as to horses over 4 years of age applies only in case they are used by the judgment debtor in earning his living); (6) the tools, agricultural implements and necessities used by the judgment debtor in the practice of his trade, profession or occu-

¹⁰ Saskatchewan. Annual Statutes, 1918-19, ch. 24, sec. 9.

pation, to the value of \$500; (7) the articles and furniture necessary to the performance of religious services; (8) the land upon which the judgment debtor or his family actually resides, or which he cultivates, either wholly or in part, or which he actually uses for grazing or other purposes, if the same be not more than 160 acres, but, if more, the surplus may be sold subject to any lien or encumbrance thereon; (9) the house, stable, barns and fences on the judgment debtor's farm, subject as above; (10) all the necessary seeds of various varieties or roots for proper seeding and cultivation of 80 acres; (11) the actual residence or home of any person, other than a farmer, provided the same does not exceed the value of \$1,500; and if the same does exceed the value of \$1,500, then it may be offered for sale, and if the amount offered, after deducting all costs and expenses, exceeds \$1,500, the property must be sold, but the amount to the extent of the exemption must at once be paid over to the judgment debtor, and such sum, until paid over to the judgment debtor, is exempt from seizure under execution, garnishment, attachment for debt or any other legal process, and no such sale can be carried out or possession given until such time as the amount of exemption has been paid over to the judgment debtor; (12) the chattel property of any municipality or school district, if the writ of execution was issued after 1st January, 1911.

Insurance Moneys.—Any moneys that may become payable by reason of loss by fire under any policy of fire insurance in respect of any property that is, at the time of such loss, exempt from seizure, are also exempt

from seizure under execution or attachment or any other legal process.

Partnerships.—A partnership firm cannot claim several exemptions for each partner, but only one exemption for the firm, out of the partnership property.

Persons Removing from Province.—The exemptions mentioned above cannot be claimed by or on behalf of a debtor who is in the act of removing with his family from the province or is about to do so, or who has absconded, taking his family with him.

Debtor's Choice.—The judgment debtor is entitled to his choice from the greater quantity of the same kind of property or articles which are exempt from seizure.

Execution for Price of Subject Matter of Judgment.—There is no exemption where the purchase price of the article is the subject of the judgment.

Growing Crops.—No sale of any farm or garden crops, whether grain or roots, can take place until after the same have been harvested or taken and removed from the ground.

Building Materials.—Whether any mechanic, artisan, machinist, builder, contractor or other person has furnished or procured any materials for use in the construction, alteration or repair of any building or erection, such buildings are not subject to execution or other process to enforce any debt other than for the purchase thereof, due by the person furnishing or procuring such materials, and whether the same be or

be not in whole or in part, worked into or made part of such building or erection.

Exempt Property Not to be Seized.—No sheriff, sheriff's bailiff, county court bailiff or other officer, charged with the execution of any writ of execution, issued out of any court in Manitoba, can seize or take in execution any goods, chattels or effects declared by law to be free from seizure under writs of execution. Furthermore, every agreement to waive or abandon an exemption from seizure or a benefit, right, or privilege of exemption from seizure, and every arrangement, contract or bargain, verbal or written, under seal or otherwise, made or entered into with or without valuable consideration, whereby an attempt is made to prevent any person from claiming the benefit, right, or privilege of exemption, is absolutely null and void.

FARM LOANS.

I. Alberta.

Acts.—Agricultural development is now being encouraged in this province by the provision of farm loans, under Government supervision. The legislation, which controls these farm loans, has been on the statute books for some time, but has not yet become general in its application. This is due largely to another form of assistance which has been given to the agricultural industry, principally the live stock industry. This last mentioned legislation is known as *The Live Stock Encouragement Act*, otherwise commonly called the "Cow Bill." Under this Act live stock associations,

consisting of five or more homesteaders, can be formed and a loan of \$500 for each person obtained from the bank under promissory note guaranteed by the Government. However, this Act does not regulate the farm loans, but is merely additional legislation to encourage that particular branch of the industry which deals with live stock. *The Alberta Farm Loan Act, 1917*, is the principal Act regulating farm loans, and farm mortgages, and its provisions are given below. (See also RURAL CREDITS).

Farm Loan Board.—The loans under the farm loan legislation are supervised by a board of directors appointed by the Government. This board has the assistance of a Commissioner of Farm Loans. The head office is in Edmonton.

How Loans are Made.—The farm loan board can lend money, secured by duly registered first mortgages on farm lands in the province, free from all prior liens and encumbrances. Every mortgage is for a 30-year period, and contains a covenant on the part of the mortgagor providing for the payment of a fixed number of annual instalments (each instalment except the last being equal) sufficient to pay the interest, and amounts to be applied on the principal, as will extinguish the debt within the agreed period of 30 years, subject to the provisions of *The Land Titles Act* for the province. Repayments on the amortization plan above, are payable on the 1st January each year. The rate of interest is fixed by the board as conditions warrant.

Extent of Loan.—No loan can be granted for an amount exceeding 40 per cent. of the appraised value

of the land offered as security for the loan, calculated on the basis of value and productiveness when the improvements in respect of which the loan is desired, have been effected. Not more than \$5,000 can be loaned to any one person. Advances can be made by instalments.

Who Cannot Obtain a Loan.—No loan can be made to any person not at the time actually engaged in or intending to be engaged in agriculture, stock raising or dairying, and whose experience and whose ability to carry on the same the board may have reasonable ground to question.

What Loan Can be Used for.—Loan may be made for the following purposes: (1) Acquiring land for agricultural purposes, including stock raising and dairying; (2) purchasing live stock, machinery, or equipment for the proper and reasonable occupation of the land; (3) erecting buildings and making improvements on farm lands; (4) discharging liabilities; (5) any purpose which in the opinion of the board will increase the productiveness and usefulness of the land in respect of which the loan is proposed.

How Loan is Paid off.—The loan is paid off on the amortization plan, part principal and interest being paid each year as above. Any mortgagor may, however, irrespective of the prescribed annual payments, pay off his mortgage in full after the expiration of one year from the date of same, upon payment of six months' interest by way of bonus, or after the expiration of 5 years from the date of the mortgage without bonus, or after the said five years he may, in addition to prescribed payments, pay on account of the mort-

gage \$25, or any multiple of \$25, but these amounts are to be paid on the interest date.

II. Saskatchewan.

Act.—*The Farm Loan Act, 1917*, of this province is the statute which regulates provision of farm loans in Saskatchewan.

Board.—The Act is administered by a farm loan board, as in other provinces.

Loans.—No loan can be made by the board except upon the security of a first mortgage on farm land situated in the province. Every loan must be expended on permanent improvements to the property mortgaged as security, or, on productive purposes connected with the development of such property, or, on the payment of liabilities previously incurred for such purposes, or (in cases which meet with the special approval of the board, and upon such conditions as the board may deem advisable in each case) on the acquisition of land for agricultural purposes. No loan can be made for an amount greater than fifty per cent. of the board's valuation of the property. All loans are made for a term of 30 years, repayable on the amortization plan, of so much principal and interest each year. The rate is fixed by the board. A recent provision has been made authorizing the board to blanket an existing mortgage for purpose of paying off an existing mortgage.¹

Remedies Against Defaulting Mortgagor.—In the event of a mortgagor failing to apply the proceeds of any loan to the purposes agreed on between himself

¹ Saskatchewan. Annual Statutes, 1919-20, ch. 71 (1).

and the board, or, in the event of any mortgagor allowing his property to depreciate in value to such an extent as may, in the opinion of the board, prejudice the board's security under the mortgage, the board may, in addition to any other remedy provided by law or in the mortgage, declare the whole or any portion of the unpaid balance of principal and interest on such mortgage immediately due and payable, and thereupon the board can exercise all rights given to it as mortgagee of a mortgage in arrears by law or by the terms of the mortgage. The board is also entitled to exercise all the rights, powers and privileges conferred on mortgagees under *The Seed Grain Advances Act*, 1920, where such law applies.²

III. Manitoba.

Act.—Agriculture is fostered and encouraged in this province by the provision of farm loans similar to those in other provinces. The principal statute is *The Manitoba Farm Loans Act*, 1917.³

Farm Loan Associations.—An association under the name of "The Manitoba Farm Loans Association" is the means of providing the necessary assistance. The association is a body corporate and has perpetual succession and a common seal. It is capable of suing and being sued, interpleading and instituting, prosecuting and defending actions in any court of law, and, subject to the provisions of the Act, of purchasing or otherwise acquiring, holding and alienating property, movable or immovable, and of doing and performing all acts

² Saskatchewan. Annual Statutes, 1919-20, ch 71 (2).

³ Manitoba. Annual Statutes, 1917, ch. 33.

and things as bodies corporate generally can do and perform. The head office is in Winnipeg.

Capital Stock.—The capital stock of the association is one million dollars, divided into two hundred thousand shares of five dollars each. No person (except borrowers on farm land mortgages, and their heirs, executors, administrators and assigns, and His Majesty in the right of the province) can be shareholders in the association, or be allotted any of the shares. All stock so held and allotted shares in all dividend distributions without preference. Stock held by any shareholder cannot be transferred or hypothecated, and the certificates issued so state, the intention being that the capital stock of the association shall always be vested in the borrowers or their personal representatives and His Majesty in the right of the province only. In case the borrower, with the consent and approval of the board, sells the mortgaged property, the stock held by the borrower is transferred to and held by the purchaser. The province may subscribe and pay for not more than fifty per cent. of the capital stock of the association, and may advance to the association a sum equal to the remainder of the whole paid up capital for the purposes of the association.

Applications for Loans.—Any person desiring to borrow money on a farm land mortgage from the association must, before his application may be considered, subscribe for shares of the capital stock of the association to an amount equal to five per centum of the face value of the desired loan, such subscription to be paid in cash upon the granting of the loan or deducted out

of the amount thereof. If the application for the loan is granted, the applicant, upon payment therefor, becomes the owner of one share of the capital stock of the association for each one hundred dollars of the amount of his loan, or fractional part. The share is paid off at par and retired out of the funds of the association upon full payment of the loan, and until such loan is paid off is held by the association as collateral security for the payment of the loan, but the borrower is paid any dividends accruing or payable on said share while it is outstanding.

Land Mortgage Loans.—All loans made by the association are secured by duly registered first mortgages on farm lands situated within the province. All mortgages securing loans contain covenants, provisos and conditions, to be observed and fulfilled on the part of the borrower. All mortgages taken by the association and other documents of every description and kind, including all notices to mortgagors, or to persons holding land under or through such mortgagors, are prepared in the Commissioner's office.

Interest.—Every mortgage contains a specific agreement or undertaking on the part of the mortgagor providing for the repayment of the loan with interest, on an amortization plan by means of thirty equal annual instalments sufficient to cover the principal money advanced and the stipulated rate of interest thereon and to extinguish the debt at the end of thirty years. The rate of interest to be charged by the association on its loans shall not exceed six per centum per annum.⁴

⁴ Manitoba. Annual Statutes, 1919, ch. 34.

Purposes for Which Loans Made.—No loans can be made except for the following purposes:—The acquiring of land for agricultural purposes and the satisfaction of encumbrances on land used for such purposes; the clearing and draining of land; the erection of farm buildings; the purchase of live stock and implements; discharging liabilities incurred for the improvement and development of land used for agricultural purposes, and any purpose calculated to increase land productiveness.

Loan Not to Exceed 50 per cent. of Value of Land and Improvements.—No loan can exceed 50 per cent. of the fair estimated value of the land mortgaged, together with the value of the improvements upon the land or to be effected out of the proceeds of such loan, and, in arriving at this value, the value of the land for agricultural purposes, and the earning power thereof, are the principal factors for appraisal purposes.

Persons to Whom Loans are Not Made.—No loan can be made to any person not at the time actually engaged or intending to be engaged on the land mortgaged, nor to any person whose experience and ability to cultivate the land the board may have reasonable grounds to question.

Maximum Loan.—No loan can be made to any one person of a greater sum than ten thousand dollars.

Conditions to be Observed.—No loan can be made to any person except:—Upon his written application in the prescribed form; and, upon a resolution of a duly

constituted meeting of the board at which the question of making the advance is considered; and until the mortgage which is proposed to be given to secure the advance has been duly executed and registered as required by law, and the title of the mortgagor to the land mortgaged is ascertained to be clear and sufficient in all respects.

Insurance Policy to be Deposited.—Whenever the value of any building attached to the land is a part of the security for a farm mortgage loan, the loan is further secured by a deposit with the Commissioner of a policy or policies of insurance against loss by fire of such buildings to the extent of at least fifty per cent. of the appraised value thereof. In the event of any premium or renewal premium for such insurance upon the said building not being promptly paid when due by the borrower, the same may be paid by the board and becomes part of the mortgage debt and bears interest at the same rate as stipulated for in the mortgage. Every such insurance policy must be made payable to the association as its interests may appear, with the option to the board of applying all sums received thereunder towards the re-erection of the buildings destroyed. The insurance policy must be that of some insurance company approved by the board.

Loans Not Made on Encumbered Land.—No loan can be made by the board upon any land which is encumbered by any mortgage or charge, unless the loan or part of the loan is made for the purpose of discharging any such mortgage or charge.

Reports on Land, Buildings, etc.—The board from time to time can obtain from its proper officer or officers information or reports as to the state and condition of the improvements for the purpose of which loans have been made, and generally as to the state and condition of the land in respect of which such loans have been made.

Failure of Applicant to Take up Loan.—If any loan has been approved by the board and the applicant fails, within one month after notification to him of the approval of the board, to execute any documents necessary to complete the security, the board may withdraw its approval of the loan, and all expenses incurred by the board in the premises are payable by the applicant to the board on demand, and if not paid are recoverable from the applicant by a suit at law.

Advances May be Made by Instalments.—Advances may be made on loan to borrowers by instalments, under such regulations and restrictions as may be prescribed by the board.

Money Advanced Applied for Other Purposes.—If at any time in the opinion of the board the money has not been or is not being applied for the purpose for which it was advanced, or is not being carefully and economically expended, the board may refuse to make any further advance and call in the whole amount already advanced and all interest thereon and declare the same to be immediately due and payable, whereupon the borrower must at once repay the same, with interest at

the rate set forth in the mortgage, and in default of payment the board has the like remedies for recovery of the same as if the time for re-payment thereof had fully arrived.

Instalment Charges and Payments Received from Borrowers on Mortgage Loans.—When instalment charges are made to borrowers on loans the accounting disposition of these charges is as follows: (1) That portion of each charge consisting of *interest* is credited to the interest account of the association, to which account is charged all interest payable and accrued on the securities issued by the association. The balance of interest earnings is carried to profit and loss account, and to this account in turn is brought all expenses of conducting the business of the association, and any amount remaining on profit and loss account disposed of subject to the approval of the Lieutenant-Governor-in-Council. (2) That portion of each charge consisting of *principal* is credited to the mortgage loan principal account.⁵

Deposit of Moneys.—When payments are received from borrowers on loans the funds must be deposited in the general bank account of the association. From these funds in bank are disbursed all the costs incurred in carrying on the affairs of the association, including all interest payable on the securities issued and dividend distributions. Any balance remaining may be disposed of subject to the approval of the Lieutenant-Governor-in-Council, as follows: For re-lending; for investment in interest-bearing bonds, stocks, debentures, or other securities, of the Dominion of Canada,

⁵ Manitoba. Annual Statistics, 1919, ch. 34.

or of the Province of Manitoba, or any province of Canada, or securities guaranteed by the Province of Manitoba, or any securities issued by any municipality or school district in the Province of Manitoba; or to be used or deposited in such other manner as may be considered expedient to meet obligations of the association.⁶

Association Empowered to Receive Deposits. — The association, with the approval of the board to be duly recorded in its minutes, and upon the adoption of appropriate rules, regulations, conditions and restrictions by the Lieutenant-Governor-in-Council, is authorized and empowered to receive deposits of money repayable with or without interest from persons or corporations, and to be a depository for any provincial, municipal or school district funds. The Lieutenant-Governor-in-Council determines the nature of the securities in which and to what extent such moneys may be invested by the board.

FIRE INSURANCE.

Policy.—A policy is a contract by which a fire insurance company, called the insurer, or “the company,” agrees to compensate the other party to the contract, called the insured, in case of loss of property by fire, if the person so insured complies with certain requirements and pays to the company a certain yearly amount called the premium.

⁶ Manitoba. Annual Statutes, 1919, ch. 34.

Payment of Premiums.—The premium must be paid to the company's agent in cash before the company will be liable. If the policy is issued while the premium is still unpaid the company will not be liable unless it acknowledges the receipt of the premium, or it was intended by the company that the policy should come into force when issued regardless of whether or not the premium is paid.

Interim Receipt.—This is a receipt given by the company's agent to the person insured upon payment of the premium in cash and until the policy is issued it is equally valid as a policy of insurance, the company being liable upon it for the full amount of the sum insured. The company continues liable upon such interim receipt until it either issues a policy or refuses to do so and notifies the holder of the interim receipt to that effect.

When Insurance Recoverable.—The insured is not entitled to recover the amount of his policy unless the loss is the direct result of a fire. His goods need not be actually burned. If they are spoiled by water used in extinguishing a fire, or by smoke, or damaged, lost or stolen while being moved from a burning building, he may recover. But if a fire is only an indirect cause of loss he cannot recover.

Spontaneous Combustion.—If loss results from spontaneous combustion he may recover.

Arson.—If the insured deliberately and intentionally sets fire to his property he not only cannot recover but is liable to imprisonment for years, if his intent be to injure or defraud any person.

Goods Substituted.—Insurance cannot be recovered in case of loss to goods moved from the building in which they were when the policy issued unless the company is notified of and consents to the change.

Who May Insure.—To be able to obtain insurance on property the person insuring must either own the property, or have an insurable interest in it, i.e., such an interest that he may suffer from its destruction or damage. The following persons have insurable interests in property and may therefore insure it in their own names against loss; owners or joint owners of property; a vendor who has sold property under an agreement of sale, but who has not been paid in full; a purchaser of property under an agreement to purchase who has paid for it in part; a mortgage of lands or goods, and the mortgagee. People holding a limited interest only may insure for the whole value for which the property may be insured and recover the full amount if the property is destroyed. They do not require to disclose when applying for insurance that their interest is only a partial one. They may insure their own interest only or their own and that of others interested with them.

Assignment of Policy.—There is, generally, a provision in the policy that it may be assigned to a purchaser or anyone acquiring an interest in the property insured, but such assignment may only be made with the consent of the company. When the insured property is mortgaged the loss is usually made payable to the mortgagee. No act of the mortgagor, such as using the property in a more dangerous manner or reinsuring

without the consent of the company can affect the mortgagee's right to the insurance in case of loss. When the property is transferred the insurance policy should be sent immediately to the insurance company's head office in order to obtain its consent to the assignment of the policy.

Statements by Agents. — An insurance company is bound by the acts of its agent in so far as he keeps within the scope of his authority. In case of fire, however, the safest course to pursue is to place the whole matter at once in the hands of a solicitor and not rely on statements by agents as to the manner of compliance with the statutory conditions. The loss of a single day in fulfilling any of these conditions after a fire may release the company of all liability unless it has agreed otherwise in writing, or has induced, by words or conduct, the person insured to delay complying with the conditions.

Statutory Conditions. — Insurance policies at one time contained many oppressive conditions, some of which were almost impossible to perform, yet failure to perform any of them meant losing the insurance, and thus companies often escaped payment after fires. To protect the public from such loss and injustice the conditions in fire policies are now fixed by law and are printed in separate paragraphs in each policy issued. If the company wishes to vary or add to such conditions, its variations must be printed in conspicuous type in red ink following the statutory conditions. These conditions should be read most carefully because there is no remedy where any of them are left unperformed.

FRANCHISE.

Dominion Elections.

Act.—The franchise, ordinarily speaking, is the right to vote. This right, however, in Canada is exercised both in federal and provincial matters, under separate and distinct legislation. The *federal* franchise law has recently been revised and consolidated, and the right to vote, and the manner of voting, at the election of a member to serve in the House of Commons of Canada, is now regulated by *The Dominion Elections Act, 1920*.¹ The reader should be careful to note that what is here said only applies to Dominion elections.

Dominion Election.—A dominion election means an election of a member or members to serve in the House of Commons of Canada. The period of an election includes the period after the issue of the writ for an election, or after the dissolution of Parliament or the occurrence of a vacancy in consequence of which a writ for an election is eventually issued, until the elected candidate is returned elected.²

Qualification of Electors.—Every person, male or female, who is a British subject by birth or naturalization, and is of the full age of 21 years, and has ordinarily resided in Canada for at least 12 months, and in the electoral district wherein such person seeks to vote, for at least 2 months immediately preceding the issue of the writ of election, is qualified to vote at the election of a member, unless he is an Indian ordinarily resident on an Indian reservation or otherwise disquali-

¹ Canada. Annual Statutes, 1920, ch. 46.

² Canada, Annual Statutes, 1920, ch. 46, sec. 2 (d).

fied under the franchise law.³ An Indian who has served in the naval, military or air forces of Canada in the late war is, however, qualified to vote if he has the ordinary qualifications of an elector.⁴

Disqualification of Electors.—Certain persons are disqualified and, therefore, incompetent to vote at an election. These include: (1) The judges of every court whose appointment rests with the Governor-in-Council—(disqualified during tenure of office); (2) the chief electoral officer—(disqualified during tenure of office); (3) persons disfranchised for corrupt or illegal practices—(disqualified during the period of their disfranchisement); (4) persons disfranchised under *The Disfranchising Act*—(disqualified during period of disfranchisement); (5) persons who, at an election, have committed any corrupt practice or illegal practice—(disqualified for the whole period of the election at which they have so offended); (6) persons, at the time of an election, who are prisoners undergoing punishment for criminal offences, or are patients in lunatic asylums, or are maintained in whole or in part as inmates receiving public charitable support or care in municipal poor-houses or houses of industry or are inmates receiving public charitable support in any institution receiving aid from the government of a province under any statute in that behalf—(disqualified for the whole period of such election);⁵ (7) persons who, by the laws of any province in Canada, are disqualified from voting for a member of the Legislative Assembly of such province in respect of race, are not qualified to vote in

³ Canada. Annual Statutes, 1920, ch. 46, sec. 29 (1).

⁴ Canada. Annual Statutes, 1920, ch. 46, sec. 29 (1).

⁵ Canada. Annual Statutes, 1920, ch. 46, sec. 30 (1).

such province at a Dominion election.⁶ However, this does not disqualify or render incompetent to vote any person who has served in the naval, military or air forces of Canada in the late war and who produces a discharge from such naval, military or air force to the registrar upon the making of the voters' lists and to the deputy returning officer at the time of polling.⁷ The following persons are also disqualified and incompetent to vote at an election for the electoral district for which or for a portion of which *they hold their offices or positions*: (1) Returning officers and election clerks, but not deputy returning officers, registrars, poll clerks or constables, whether appointed by the returning officer or by a deputy returning officer, employed in connection with the election; (2) any person who, at any time, either before or during the election, has been or is employed by any other person to act at the same election or in reference thereto as counsel, attorney, solicitor, agent or clerk, or agent at any polling station at such election, or in any other capacity, and who has received or expects to receive, either before, during or after the said election, from any person, for acting in any such capacity, any sum of money, fee, office, place or employment, or any promise, pledge or security for any sum of money, fee, office, place or employment.⁸ The returning officer may, nevertheless, vote in the case of an equality of votes between candidates.⁹

Naturalization, Allegiance and Nationality.—The allegiance or nationality of a person, as it was at the

⁶ Canada, Annual Statutes, 1920, ch. 46, sec. 30 (1).

⁷ Canada, Annual Statutes, 1920, ch. 46, sec. 30 (1).

⁸ Canada, Annual Statutes, 1920, ch. 46, sec. 31 (1).

⁹ Canada, Annual Statutes, 1920, ch. 46, sec. 31 (2).

birth of such person, is considered by the franchise law as being incapable of being changed, or of having been changed, merely by reason or in consequence of marriage, or change of allegiance, or naturalization of *any other person*, or otherwise than by personal naturalization.¹⁰ However, this does not apply to any person born on the continent of North America, nor to any person who *in person* applies to, and obtains from any naturalization judge, a certificate under the hand of the judge and seal of the court, as follows:—

CERTIFICATE.

"To all whom it may concern:

"This is to certify that from evidence submitted before me, I am satisfied that of in the Province of is a person naturalized as a British Subject by operation of law, who, but for such naturalization or for any disability contained in the Naturalization Act, 1920, is qualified and would be entitled at the date of the issue of this certificate to be personally naturalized in Canada.

"Dated this day of 19.....

(Sgd.)

Judge of

(SEAL)

How to Become a Voter.—A voter is an elector *whose name appears on any list of voters*, prepared or added to as directed by the franchise law.¹¹ The reader should note this particularly because it is obvious that the *elector*, to become a *voter*, must have his name on the voters' list. This distinction is carefully set out in the franchise law, as it defines an "elector" as a person *qualified* to vote at a Dominion election, whether his name is or is not on any list of voters,¹² and it defines a "voter" as being an elector whose name *appears* on any list of voters prepared or added to as directed by the franchise law, and includes any person

¹⁰ Canada. Annual Statutes, 1920, ch. 46, sec. 29 (2).

¹¹ Canada. Annual Statutes, 1920, ch. 46; sec. 2 (z).

¹² Canada. Annual Statutes, 1920, ch. 46, sec. 2 (b).

who, whether or not a voter as defined above, applies to vote or has voted at an election.

Voters' Lists.—For the purposes of any Dominion election held within the limits of a province the voters' lists are those prepared and completed for the several polling divisions, under the laws of that province, within two years immediately preceding the issue of the writ for such election, and which were, under such laws, in force, or had been last in force, for the purposes of provincial elections. But to such lists there may be added the names of such persons, male and female, as, being capable and qualified under the franchise law to be voters within any polling division (whether or not so capable or qualified under the laws of such province) are not named on such lists; and from such lists there may be subtracted the names of such persons, male and female, as, pursuant to the provisions of the franchise law, are disqualified, non-qualified, or incompetent to be voters within such polling division.¹³ If under the laws of any province no such lists have been prepared within such period of time, or if the laws of the province do not provide for the making of such lists, the voters' lists for such Dominion election are wholly prepared and completed in manner provided in the franchise law.¹⁴ The legal custodian of any provincial voters' list must deliver certified copies, as last revised and corrected, to any person applying therefor, on payment of a fee not exceeding that, if any, allowed by the provincial law in the like case. If any such legal custodian refuses, or omits for an unreasonable time after application made, to so deliver, he is guilty

¹³ Canada. Annual Statutes, 1920, ch. 46, sec. 32 (1).

¹⁴ Canada. Annual Statutes, 1920, ch. 46, sec. 32 (2).

of an indictable offence. Where provincial voters' lists are adopted for use in a Dominion election, and where new polling divisions are created which do not conform to the provincial polling divisions, the registrar for *urban* polling divisions, and the returning officer for *rural* polling divisions respectively transfer the names of the voters from the *provincial* polling division and place them in their appropriate *Dominion* polling divisions.

Advance Polls.—Every *railway employee, sailor, and commercial traveller*, being an elector whose name appears on the list of voters of a polling division within which any of the following places are wholly or partly contained, namely:—

Alberta.—Bassano, Big Valley, Calgary, Camrose, Coalspur, Coronation, Coutts, Edmonton, Edson, Grande Prairie, Hanna, Hardisty, Jasper, Lac La Biche, Lethbridge, Lamont, Loverna, Lovett, Macleod, McLennan, Medicine Hat, Mirror, Mountain Park, Pocahontas, Red Deer, Spirit River, Smith, Tofield, Ullen, Vermilion, Wainwright, West Edmonton, Wetaskiwin;

Saskatchewan.—Alsask, Altawana, Assiniboia, Battleford, Biggar, Bredenbury, Broadview, Canora, Carruthers, Colonsay, Erwood, Hudson Bay Junction, Humboldt, Kamsack, Kerrobert, Kindersley, Kipling, Lanigan, Lipton, Macklin, Maple Creek, Melville, Moose Jaw, Neudorf, Northgate, North Battleford, North Portal, Perdue, Prince Albert, Radville, Regina, Riverhurst, Saskatoon, Strasbourg, Sutherland, Swift Current, Vanguard, Watrous, Weyburn, Wilkie, Wynyard, Yorkton;

Manitoba.—Arborg, Binscarth, Boissevain, Brandon, Dauphin, Elm Creek, Elmwood, Emerson, Fort Rouge, Gilbert Plains Junction, Gretna, Le Pas, Minnedosa, Neepawa, Portage la Prairie, Rivers, Riverton, Souris, Swan River, Transecona, Virden, Winnipeg;

and whose employment or calling is such as to necessitate from time to time his absence from his ordinary place of residence and who has reason to believe that because of necessary absence from such place of residence in pursuit of his employment or calling, he will be unable to vote on polling day, can vote *in advance* of polling day.¹⁵

Advance polls are only open between the hours of seven and ten o'clock in the afternoon of the three days, exclusive of Sunday, immediately preceding polling day. The returning officer (not later than seven days before polling day) gives public notice within the place where an advance poll is to be held, of the poll and of the location of the polling station. A person applying to vote at an advance poll is permitted to do so only *after compliance with the following*, in addition to all other provisions of the franchise law. He must produce and deposit with the deputy returning officer a certificate of his right to vote, issued and signed by the registrar or revising officer of his polling division and countersigned by himself in the presence of such registrar or revising officer. He must, in the presence of the deputy returning officer, sign the statement of identification. He must make before the deputy returning officer a declaration of necessity of

¹⁵ Canada. Annual Statutes, 1920, ch. 46, sec. 100.

voting at an advance poll. Every registrar or revising officer of a polling division within which any place above mentioned is wholly or partly contained must, on application of an elector whose name appears on the list of voters of such polling division, issue *gratis* to such elector on that elector's attendance and request made in person, but not otherwise, a certificate to vote, and forthwith thereafter enters in the "Remarks" column of his list of voters, opposite the name of such elector, the words "Advance Poll." If, at the time of issue of such certificate, the registrar or revising officer has already delivered to the deputy returning officer the official list of voters, the registrar or revising officer issues such certificate in duplicate and forthwith delivers to the deputy returning officer one of such duplicates, whereupon the deputy returning officer makes, opposite such name on the official list of voters, the like entry. For the purposes of the election officers at ordinary polling stations, persons who have secured certificates are deemed to have already voted. However, if an elector who has obtained an advance poll certificate is unable to vote at an advance poll he is, nevertheless entitled to vote on polling day at the polling station at which his name appears upon the list of voters, and at no other polling station. Before so voting such elector must surrender his certificate to the deputy returning officer, who then and there cancels such certificate and the entry concerning the same on the official list of voters, and such elector is then entitled to vote as if such certificate had never been issued.

Election Day Poll.—Every person whose name ap-

pears on a voters' list is entitled to vote. At the hour fixed for opening the poll the deputy returning officer and the poll clerk, in the presence of the candidates, their agents, and such of the electors as are present, opens the ballot box and ascertains that there are no ballot papers or other papers therein, after which the box is locked, and the deputy returning officer keeps the key. The box is placed on a table in full view of all present and maintained there until the close of the poll. Immediately after the ballot box is so locked, the deputy returning officer calls upon the electors to vote. The deputy returning officer secures the admittance of every elector into the polling station, and sees that voters are not impeded or molested at or about the polling station. Not more than one voter for each compartment can, at any time, enter the room where the poll is held. Each elector, upon so entering, declares his name. Particulars are entered in the poll book kept by the poll clerk, a number being prefixed to the voter's name.

Where to Vote.—Every person is entitled to vote whose name appears on a voters' list. He may vote at the polling station of the *polling division upon the list of voters* for which his name so appears and *at no other*.¹⁶ No elector can vote more than once in the same electoral district at the same election, nor in more than one electoral district on the same day, but each elector may vote for as many candidates as are required to be elected to represent the electoral district in which he votes.

¹⁶ Canada. Annual Statutes, 1920, ch. 46, sec. 57 (1).

Name Not on List.—At polling stations in *rural* polling divisions the deputy returning officer must, while the poll is open, if required, by any person whose name is not on the voters' list and who is *vouched for by an elector* whose name appears upon a voters' list and who is a resident in such polling division, administer to these persons the oaths set out in the franchise law (Forms 33, 34) and such oaths having been taken, the deputy returning officer at once causes the applicant's name to be added to the voters' list, with the word "sworn" written thereafter.¹⁷ In addition to the oath before mentioned, the deputy returning officer may, and (when required by any candidate, agent or elector to do so) must administer to any person who claims the right to vote at such deputy's polling station, either one or both of the oaths (Forms 31, 32) set out in the franchise law, and if such person refuses to take such oath, he is not permitted to vote.¹⁸

Manner of Voting.—Voting is by ballot. Each voter receives from the deputy returning officer a ballot paper, on the back of which such officer has previously put his initials, so placed that when the ballot is folded they can be seen without opening it, and on the back of the counterfoil of which he has placed a number corresponding to that placed opposite the voter's name in the poll book. The deputy returning officer usually instructs the voter how and where to affix his mark, and properly fold the voter's ballot paper, directing him to return it when marked, folded as shown, but without inquiring or seeing for whom he intends to

¹⁷ Canada, Annual Statutes, 1920, ch. 46, sec. 63 (1).

¹⁸ Canada. Annual Statutes, 1920, ch. 46, sec. 63 (2).

vote, except in the case herein provided for of a voter who is unable to read or incapacitated by blindness or any physical cause from voting in the manner prescribed by this Act.

Voting and Marking Ballot.—The voter, on receiving the ballot paper, forthwith proceeds into one of the polling compartments and there marks his ballot paper by making a cross with a black lead pencil within the white space containing the name of the candidate or of each of the candidates for whom he intends to vote. He then folds the ballot paper as directed so that the initials and official stamp on the back of it and the number on the counterfoil can be seen without opening it, and hand the paper to the deputy returning officer, who, without unfolding it, ascertains by examination of the initials, official stamp and number appearing thereon that it is the same paper as that delivered to the voter. Forthwith, in full view of the voter and all others present, he removes and destroys the counterfoil and deposits the ballot in the ballot box.¹⁹ Where the deputy returning officer has inadvertently omitted to remove the counterfoil from the ballot paper before placing such ballot paper in the ballot box, he may, exercising care, however, that the number on such counterfoil be not seen by any person present and without himself examining such number, remove and destroy such counterfoil at the counting of the ballots. The judge who may conduct any recount proceedings has the like power, inadvertence on the part of the deputy returning officer being, for the purposes of the recount, presumed. The ballots, if otherwise in proper

¹⁹ Canada. Annual Statutes, 1920, ch. 46, sec. 62 (3).

form, are counted as if the counterfoil had been removed at the proper time.

Spoiled Ballot Paper.—A voter, who has inadvertently dealt with the ballot paper delivered to him in such manner that it cannot conveniently be used, can restore it to the deputy returning officer, who defaces it in such manner as to render it a spoiled ballot and delivers another in its place.²⁰

Blind and Illiterate Voters.—The deputy returning officer, on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting, always requires the voter to take an oath as to his incapacity to vote without assistance and after this is done he assists such voter by marking his ballot paper in the manner directed by the voter, and this is done in the presence of the sworn agents of the candidates, or of the sworn electors representing the candidate in the polling station, and the deputy returning officer places the ballot in the ballot box.²¹

Railway Employees, Sailors and Commercial Travellers.—These have the right to vote under the conditions mentioned above in connection with advance polls.

Counting the Vote.—Immediately after the close of the poll the deputy returning officer, (1) places all the spoiled ballots in an envelope and seals it up; (2) counts the number of voters whose names appear on the poll book as having voted and makes an entry on the line immediately below the name of the voter who

²⁰ Canada. Annual Statutes, 1920, ch. 46, sec. 62 (4).

²¹ Canada. Annual Statutes, 1920, ch. 46, sec. 62 (7).

voted last, thus: "The number of voters who voted at this election in this polling division is" (stating the number), and signs his name. Then in the presence of and in full view of the poll clerk and the candidates or their agents, and, if the candidates and their agents or any of them are absent, then in the presence of such, if any, of them as are present, and of at least three electors, he opens the ballot box and proceeds to count the number of votes given for each candidate, giving full opportunity to those present to examine each ballot.²² In counting the votes, the deputy returning officer rejects all ballot papers—(1) which have not been supplied by him; or (2) by which votes have been given for more candidates than are to be elected; or (3) upon which there is any writing or mark by which the voter could be identified, other than the numbering by the deputy returning officer. No ballot paper is rejected on account of any writing, number or mark placed thereon by the deputy returning officer. The deputy returning officer takes a note of every objection made by any candidate, or his agent or any elector present, to any ballot paper found in the ballot box, and then decides every question arising out of the objection. The decision of the deputy returning officer is final, subject to reversal on recount or on petition questioning the election or return. Every such objection is numbered, and a corresponding number placed on the back of the ballot paper and initialed by the deputy returning officer. All the ballot papers not rejected by the deputy returning officer are counted and a list kept of the number of votes given to each

²² Canada. Annual Statutes, 1920, ch. 46, sec. 66.

candidate, and of the number of rejected ballot papers, and the ballot papers which respectively indicate the votes given for each candidate are put into separate envelopes or parcels. All rejected, spoiled and unused ballot papers are put into separate envelopes or parcels and endorsed so as to indicate their contents. They are sealed by the deputy returning officer, and by such agents present as may desire to seal them or to sign their names thereon in addition or instead. The deputy returning officer and the poll clerk, immediately after the completion of the counting of the votes, take and subscribe respectively the oaths attached to the poll book. The deputy returning officer makes out a statement in triplicate, one copy to remain attached to the poll book, one copy to be retained by the deputy returning officer, and the third copy to be enclosed by him in a special envelope supplied for the purpose, which envelope he seals and deposits in the ballot box. He fills in the blank expense voucher furnished to him by the returning officer, causes it to be signed by the various officials of his polling station entitled to fees, certifies the same and places it in a special envelope furnished for that purpose and deposits it in the ballot box. He delivers to each of the candidates, or to their agents, or, in the absence of such candidate or agents, to the electors present representing the candidates, a certificate of the number of votes given for each candidate, and of the number of rejected ballot papers, and mails to each candidate, by registered letter to their addresses stated in the ballot paper, a like certificate.²³

²³ Canada. Annual Statutes, 1920, ch. 46, sec. 66.

GRAIN.

I. Grain Elevators.

Act.—The grain industry of Canada is protected by extensive legislation which regulates the inspection and sale of grain. The Act is known as *The Canada Grain Act*, 1912.¹ The enforcement of this Act is in the hands of a board, known as "The Board of Grain Commissioners for Canada," consisting of three commissioners, who are appointed by the Dominion Government. Their business is, amongst other things, to see that the grain law is properly administered, and to advise the Government on matters dealing with the grain industry. This board appoints other boards under it to carry out certain special provisions of the law, and these include, a board of grain examiners, and a grain standards board. There is also a board of appeal, which is appointed by the Government.² There is also a grain survey board at Calgary in the Western Inspection Division.³ The farmer does most of his business with the "country" elevator, and these are first dealt with below.

Elevators.—"Country elevators" are elevators and warehouses, or flatwarehouses, which receive grain for storage, before such grain has been inspected. They are situated on the right of way of a railway or on sidings or spur tracks connected therewith, or on depot grounds, or on lands acquired or reserved by railway companies to be used in connection with its line of railway at stations or sidings. All country elevators

¹ Canada. Annual Statutes, 1912, ch. 27.

² Canada. Annual Statutes, 1919, ch. 40, sec. 6.

³ Canada. Annual Statutes, 1919, ch. 40, sec. 8 (1).

are under the supervision of the Grain Board. A license is necessary.

Operation.—The duties of a person operating a country elevator include: (1) Receiving the grades of grain established under the grain law; (2) receiving grain without discrimination as to persons, for storage or shipment, during reasonable and proper business hours; (3) insuring grain, so received, against loss by fire while stored; (4) keeping a true and correct account in writing in proper books, of all grain received, stored and shipped at such country elevator, stating the weight, grade, and dockage for dirt or other cause, of each lot of grain received in store, for sale, storage or shipment; and (5) at the time of delivery of any grain at such country elevator, to issue to the person delivering the grain, either a cash purchase ticket, warehouse receipt, or storage receipt for special binned grain, dated the day the grain was received, for each individual load, lot or parcel of grain delivered at such country elevator.

Cleaning of Grain.—The owner, lessee or manager of every country elevator equipped with grain cleaners must, if requested so to do, clean the grain before it is weighed. Persons interested in the weighing of grain at any country elevator have free access to the scales while such grain is being weighed, and if the facilities exist, and if they so desire, are given ample opportunity, after the cleaning is done, of personally ascertaining the net weight of the grain cleaned. The net weight of the grain cleaned is specified on the face of the certificate given the seller by the purchaser.

Warehouse Receipt. — The person operating any country elevator must, upon request of any person delivering grain for storage or shipment, deliver to such person a warehouse receipt or receipts, dated the day the grain was received and specifying (1) the gross and net weight of such grain; (2) the dockage for dirt or other cause; (3) the grade of such grain when graded conformably to the grade fixed by law and in force at terminal points; and (4) that the grain mentioned in such receipt has been received into store. Such receipt also states upon its face that the grain mentioned therein has been received into store, and that upon the return of such receipt, and upon payment or tender of payment of all lawful charges for receiving, storing, insuring, delivering or otherwise handling such grain, which may accrue up to the time of the return of the receipt, the grain is deliverable to the person on whose account it has been taken into store, or to his order, from the country elevator where it was received for storage, or, if either party so desires, in quantities not less than carload lots, on track at any terminal elevator in the Western Inspection Division, on the line of railway upon which the receiving country elevator is situate, or any line connecting therewith, so soon as the transportation company delivers the same at such terminal, and the certificate of grade and weight is returned. In the case of a country elevator on the line of railway formerly known as the Northern Pacific and Manitoba Railway, or on any line of railway operated therewith, or the Great Northern Railway, if either party desires such grain to be shipped to a terminal point, it may be delivered on track

at the proper terminal elevator, at or adjacent to Duluth. This does not prevent the owner of such grain from, at any time before it is shipped to terminals, requiring it to be shipped to any other terminal.

Delivery of Grain on Return of Receipt.—Upon the return or presentation of such receipt properly endorsed by the lawful holder thereof, at the country elevator where the grain represented therein is made deliverable, and upon the payment or tender of payment of all lawful charges, and upon request for shipment made by the holder of such receipt, the grain is delivered to such holder into cars as soon as furnished by the railway company. The person operating the country elevator must in such case promptly call upon the railway company for cars to be supplied in the order of the dates upon which such receipts are surrendered for shipment. The grain represented by such receipt is shipped within twenty-four hours after such demand has been made, and cars and other means of receiving it from the country elevator have been furnished, and is not subject to any further charges for storage after request for delivery has been made and cars are provided by the railway company. In every case where grain has been delivered at any country elevator, and a cash purchase ticket issued therefor to the person from whom such grain was received by the warehouseman, and should his paying agent within twenty-four hours after demand by the holder, provided such demand be made during twenty-four hours after the issue of the purchase ticket, neglect or refuse to redeem such cash purchase ticket, the said holder may at once, upon surrender of such cash ticket, de-

mand in exchange therefor a warehouse storage receipt bearing same date and place of issue, and for similar grade and net weight of grain as was shown on the cash purchase ticket aforesaid. Upon return of the cash purchase ticket to the warehouseman he must at once issue in exchange therefor to the holder a warehouse storage receipt of same grade and quantity of grain as shown on the face of said surrendered cash purchase ticket. However, the owner, possessor or holder of a cash purchase ticket is not deprived of his right to payment or redemption of the same as against the warehouseman or his surety if he does not avail himself of the above provisions.⁴

Forwarding Grain to Terminal Elevators. — On the return of the storage receipts (if the shipment or delivery of the grain at a terminal point is requested by the owner) the person receiving the grain must deliver to the owner a certificate evidencing his right to such shipment or delivery and stating upon its face the following:— (1) Date and place of its issue; (2) the name of the consignor and consignee; (3) place of destination; (4) the kind of grain and the grade, and net quantity, exclusive of dockage, to which the owner is entitled by his original warehouse receipts, and by official inspection and weighing at the designated terminal point. The certificate is returned in exchange for the railway shipping receipt and certificates of weight and grade. The grain represented by such certificate is subject only to such storage, transportation, or other lawful charges as would accrue upon such grain from

⁴ Canada. Annual Statutes, 1919. ch. 40. sec. 14.

the date of the issue of the certificate to the date of actual delivery, at such terminal point.

Ordering Cars.—Any person having grain stored or binned in not less than car lots in any country elevator (whether in general or special bin) may order cars to be placed at such elevator for the shipment of the grain so stored, and may have the cars loaded at such elevator after he has surrendered to the grain operator the storage receipts therefor, properly endorsed, and has paid or tendered payment of all lawful charges. The grain is not subject to any further charges for storage after demand for such delivery is made and cars are furnished by the railway company. In case of grain stored in *special bins*, if the storage receipts and lawful charges against the grain are not delivered or paid at the time of billing the car, the elevator operator may hold the bill of lading until the owner has surrendered the storage receipts, and paid all lawful storage charges due thereon. However, it is an offence against the act for the elevator operator to sell or dispose of the bill of lading in such case without the consent of the owner of the grain, and the bill of lading must be made out in all cases in the name of the owner of the grain shipped. The grain represented by the receipt must be shipped within 24 hours after demand has been made and cars have been furnished. If not delivered upon such demand within 24 hours after such car, vessel, or other means for receiving the grain has been furnished, the country elevator in default is liable to the owner of such receipt for damages for such default in the sum of one cent per bushel, and in addition thereto one cent per bushel for each day of such neglect

or refusal to deliver. No warehouseman is held to be in default in delivering if the grain is delivered in the order demanded by holders of different receipts or terminal orders, and as rapidly as due diligence, care and prudence will justify.

Operator's Rights of Shipment.—Upon giving forty-eight hours' notice to the owner, or his local agent appointed in writing, the operator of any country elevator may forward any grain stored in his elevator to any terminal elevator in the Western Inspection Division on the same line of railway, or on railways connecting therewith. On so doing he is liable for the delivery thereof to its owner at such terminal elevator in the same manner and to the same extent in all respects as if such grain had been so forwarded at the request of the owner. In case of a country elevator on the line of railway formerly known as the Northern Pacific and Manitoba Railway, or on any line of railway operated therewith, and on the Great Northern Railway, such grain may be delivered on track at the proper terminal elevator at or adjacent to Duluth. The owner of such grain may waive his right, in writing, to the forty-eight hours' notice.

Delivered at Terminal.—The grain when so delivered at terminals is subject to freight, weighing and inspection charges and all other charges, if any, lawful at such terminal point. The party delivering is liable for the delivery of such grain as will, on weighing at the terminal point, conform to the grade according to the certificate of inspection and as nearly as possible to the weight mentioned in the receipt.

II. Grade or Dockage.

Sample of Grain.—In case there is a disagreement between the purchaser or the person in the immediate charge of receiving the grain at the country elevator and the person delivering the grain to such elevator for sale, storage or shipment at the time of such delivery, as to the proper grade or dockage for dirt or otherwise, except as to condition, on any lot of grain delivered, a fair and proper sample is drawn in the presence of the person delivering the grain out of each hopper load as delivered and at least three quarts from samples so taken is forwarded in a suitable sack properly tied and sealed, express charges prepaid, to the chief inspector of grain, and this is accompanied by the request in writing of either or both of the parties, that the chief inspector will examine the sample and report on the grade and dockage the said grain is in his opinion, entitled to and would receive if shipped to the terminal points and subjected to official inspection.

Duty of Chief Inspector.—The chief inspector, as soon as practicable, examines and inspects such sample or samples of grain and adjudges the proper grade and dockage to which it is, in his judgment, entitled, and which grain of like quality and character would receive if shipped to the terminal points in carload lots and subjected to official inspection.

Finding By Chief Inspector.—As soon as the chief inspector has examined, inspected and adjudged the grade and dockage he makes out in writing a statement of his judgment and finding and transmits a copy thereof by mail to each of the parties to the disagree-

ment, preserving the original together with the sample on file in his office. The judgment and finding of the chief inspector on all or any of the said matters is conclusive. Where the disagreement as to grade and dockage arises on the sale of the grain by a farmer to such country elevator the farmer is paid on the basis of grade and dockage offered him by the elevator, but the final settlement is made on the basis of grade and dockage given by the chief inspector.

III. Loading Platforms.

Loading Platforms.—On a written application to the Board by ten farmers resident within twenty miles of the nearest shipping point, and on the approval of the application, the railway company must erect and maintain at such point a loading platform, suitable for the purpose of loading grain from vehicles direct into cars. The period in each year within which the Board may receive such applications is between the fifteenth of April and the fifteenth of October, and the company cannot be compelled to build any such loading platforms between the first day of November and the first day of May following.

Company to Construct Platform Within Thirty Days.—The railway company must construct such loading platform within thirty days after the application is made to the company by the Board, unless prevented by strikes or other unforeseen causes, and is liable to a fine of not less than twenty-five dollars for each day's delay beyond that time.

Location and Dimensions.—Each loading platform

must be erected within the limit of the station yard, or upon a siding where there is no station, at a siding which the railway company provides on its premises in some place convenient of access, to be approved by the Board. It must be of such height, width and length as the Board prescribes. In no case must the length exceed one hundred feet nor the width twenty-four feet. No loading platform can be erected at crossing sidings reserved for crossing purposes only.

Free Use of Loading Platform.—All persons desiring to use the loading platform for the shipment of grain are entitled to do so free of charge.

Enlarging Platforms.—The Board may at any time between 15th April and 15th October, in any year, order the railway company to enlarge any platform at any station or siding, or order the company to erect additional platforms at such station or siding, if, in the judgment of the Board, the loading platform at such station or siding is insufficient to accommodate the public. The railway company must enlarge the platform or erect additional platforms at such stations or siding within 30 days after the receipt of the order of the Board.

Cars for Loading at Platform.—The railway company must, upon application, furnish cars to applicants for the purpose of being loaded at such loading platforms. When more cars are furnished at any point than can be accommodated at the platform, the surplus cars are placed by the company at the applicant's disposal at a convenient place on a siding, other than at the platform. Shippers, if they so desire, have the op-

tion of loading on the siding instead of over the platform.

Points Where There Are No Platforms.—At any point where there is no platform cars must be furnished to applicants by the railway company at convenient places on a siding for the purpose of being loaded direct from vehicles.

IV. Allotting Cars.

Generally.—At each station where there is a railway agent, and where grain is shipped under such agent, an order book for cars is kept for each shipping point under the agent, open to the public, in which applicants for cars make their order. In the case of a flag station or siding from which grain is shipped, the Board can, in its discretion, and for such periods as it deems necessary, require the railway company to provide at such flag station or shipping siding a suitable person whose duty it is:—(1) To keep open for the use of shippers at all times during the day a car order book, in which orders for cars can be entered; (2) when the loading of cars is completed, to seal such car or cars; (3) to provide shippers with the regular form of grain shipping bill; and (4) when such grain shipping bill is properly filled out by the shipper, to hand it to the conductor of the train that picks up such car or cars or place it where such conductor may get it. These provisions, of course, do not apply to a siding used exclusively for the passing of trains.

Application for Cars.—An applicant may order a car or cars according to his requirements, of any of the

standard sizes in use by the railway company, and in case he requires to order any special standard size of car can have such size stated by the station agent in the car order book, and the railway company must furnish the size ordered to such applicant in his turn as soon as a car of such specified capacity can be furnished by the railway company at the point on the siding designated by the applicant in the car order book. In the event of the railway company furnishing a car or cars at any station and such car or cars not being of the size required by the applicant first entitled thereto, such applicant does not lose his priority but is entitled to the first car of the size designated which can be delivered at such station at such applicant's disposal as aforesaid.

Order for Cars.—The applicant or his agent duly appointed in writing must furnish to the railway agent the name and the post office address of the applicant, and the section, township, and range, on which the grain was grown, for insertion in the car order book. Each car order is consequently numbered in the car order book by the railway agent, who fills in with ink all particulars of the application, except, of course, the applicant's signature, which must be signed by the applicant or his agent duly appointed in writing.⁵ An agent of the applicant must be a resident in the vicinity of the shipping point, and if the car order is signed by the agent of the applicant the appointment must be deposited with the railway agent. No agent, employee, owner or operator of any elevator company, or of any grain company, or of any person licensed under the

⁵ Canada. Annual Statutes, 1919, ch. 40, sec. 16.

grain laws, is allowed, either directly or indirectly, to act as agent for the applicant.⁶

How Cars Are Allotted.—Cars ordered as above are awarded to applicants according to the order in time in which such orders appear in the order book, without discrimination between country elevator, loading platform or otherwise. A car is not considered to have been awarded to an applicant unless it is in proper condition to receive grain.

Duties of Applicant.—Each such applicant or agent, on being informed by the railway agent of the allotment to him of a car, in good order and condition, must at once declare his intention and ability to load the car within the next 24 hours. In the event of such applicant or agent being unable to so declare his intention, and ability to load the car allotted to the applicant, the railway agent thereupon cancels the order by writing in ink across the face the word "cancelled" and his signature. The date of cancellation is filled in and the car is awarded to the next applicant entitled to it. If the applicant, after declaring his intention and ability to load, does not commence loading the car within the period of 24 hours from the time of the notice to himself or his agent, the railway agent cancels the order. No cancellation of a car order can be made except as above.

Duties of Railway Agent.—At the time the car is ordered the railway agent enters in ink in the order book:—(1) Date and time when application was made; (2) where car is to be placed; (3) number of application in consecutive order. When the car has been fur-

⁶ Canada. Annual Statutes, 1919, ch. 40, sec. 18.

nished he enters, in ink, in the car order book:—(1) Date and time car was furnished; (2) car number; (3) the date of loading (when loaded) and destination of car. The railway agent posts up daily in a conspicuous place a written notice, signed by him, giving the date of application, name of each applicant to whom he has on that day awarded cars for the loading of grain, and the car numbers so awarded respectively. The notice is made out in duplicate; one copy is kept on file by the agent, and the other posted in a conspicuous place in the waiting room or in the place of business of the person in charge of the car order book. These notices are open for examination by all persons for a period of not less than 60 days from the time the cars are awarded.⁷

Spotting and Placing of Cars By Company.—An applicant may order the cars awarded to him to be spotted or placed by the railway company at any country elevator, or loading platform, or at any siding, or elsewhere, and the railway company must spot or place cars as ordered by applicants.

Notice of Destination By Applicant to Railway Agent.—Each person to whom a car has been allotted must, before commencing to load it, notify the railway agent of its proposed destination.

When Car is Considered Furnished.—A car is not considered to be furnished or supplied until it is placed for loading as directed in the application in the car order book.

Order of Distribution in Case of Failure to Fill Car Order.—If there is a failure at any shipping point to fill

⁷ Canada. Annual Statutes, 1919, ch. 40, sec. 17.

all car orders, the following provision applies to the application for and distribution of cars:— (1) Beginning at the top of the list in the order book and proceeding downwards to the last name entered on the list, each applicant receives one car as quickly as cars can be supplied; (2) when an applicant has loaded or cancelled a car allotted to him he may, if he requires another car, become eligible therefor by placing his name, together with the section, township and range in which he resides, or other sufficient designation of his residence at the bottom of the list, and when the second car has been allotted to him and he has loaded or cancelled it, he may again write his name, together with such designation of his requirements at the bottom of the list, and so on, until his requirements have been filled; (3) no applicant can have more than one unfilled order on the order book at any one time.

Board's Powers as to Cars.—The Board may, in its discretion, during a car shortage direct the railways to make an equitable distribution of empty grain cars to all stations or sidings in proportion to the amount of grain available for shipment from such stations or sidings. The Board may, in its discretion, order cars to be supplied:— (1) To elevators that are in danger of collapse; (2) to places where grain is damp and thereby liable to become damaged; (3) for the purpose of distributing seed grain to any point in the Western Division; (4) in cases where the operator of any country elevator reports in writing under oath that some portion of the grain in such elevator is heated, and that in order to preserve such grain it is necessary to ship such heated grain to the terminal elevator for treatment.

However, no relief can be granted in such last mentioned cases as long as the warehouseman has sufficient room in his building for the rehandling of such grain.

V. Commission Merchants.

Application.—Any person desiring to carry on the business of grain commission merchant in the Western Inspection Division must make application in writing to the Board for a license to sell grain on commission, stating the locality where he intends to carry on such business, and the probable amount of business he will do monthly.

Bond.—On receiving such application the Board fixes the amount of a bond to be given to His Majesty, with sufficient surety, for the benefit of persons entrusting such commission merchants with consignments of grain to be sold on commission. If such commission merchant receives grain for sale on commission the bond is conditioned that he shall faithfully account and report to all persons entrusting him with grain for sale on commission, and pay to such persons the proceeds of the consignments of grain received by him, less the commission earned on account of the making of such sale, and necessary and actual disbursements. If he does not receive grain for sale on commission the bond is conditioned for the faithful performance of his duties as such commission merchant.

License.—Upon the execution of such bond to the satisfaction of the Board, and upon payment of the license fee, the Board issues a license to the applicant to carry on the business of grain commission merchant.

until the expiration of the current license year. If the amount of business done exceeds that provided for in the bond, the Board may at any time require such additional bond as it deems necessary. No person can engage in the business of selling grain on commission, or receive or solicit consignments of grain for sale on commission, in the Western Inspection Division, without first obtaining such annual license from the Board. No person, firm, or corporation, licensed as a grain commission merchant, can directly or indirectly buy for their own account any grain consigned to them for sale on commission.⁸

Records of Sales.—Whenever any grain commission merchant sells all or a portion of any grain consigned to him to be sold on commission he must within 24 hours of such sale report such sale to the consignor and render to the consignor a true statement of such sale showing:— (1) What portion of the consignment has been sold; (2) price paid therefor; (3) date when sale made; (4) name of purchaser; (5) grade; (6) amount of advance; (7) terms and delivery of sale. The report is signed by the grain commission merchant, or by his duly appointed agent, and vouchers for all charges and expenses paid or incurred must be attached.

Complaints By Consignor.—Whenever any consignor who has consigned grain to any commission merchant, after having made demand therefor, receives no remittance, or report of the sale, he should make a complaint in writing, verified by affidavit, or statutory declaration, to the Board. An investigation of the sale is then made, and a written report sent to the complainant.

⁸ Canada. Annual Statutes, 1919, ch. 40, sec. 18.

VI. Track Buyers.

Track Buyers.—Unless already licensed and bonded sufficiently in the opinion of the Board to carry on the business of a track buyer, no person can carry on the business of a track buyer without first having obtained a license so to do from the Board and entered into a bond, with sufficient sureties, for such amount and in such form as is approved by the Board. This does not apply to any person who, at or before the time of the receipt of the grain, pays to the vendor the full purchase price thereof.

Payment of Purchase Money.—Every person licensed as a track buyer must on demand within twenty-four hours after the receipt of the expense bill and certificates of weight and grade, account to and pay over to the vendor the full balance of the purchase money then unpaid, and shall, upon demand, by, or on behalf of the vendor, furnish duplicate certificates of weight and grade, with car number and date and place of shipment.

Duties of Track Buyer.—Every person who buys grain on track in carload lots must keep true and correct account in writing in proper books of all grain bought by him in such carload lots, and deliver to the vendor of each such carload lot of grain a grain purchase note, retaining himself a duplicate thereof. The note bears on its face the license season, the license number of such track buyer's license, the date and place of purchase, the name and address of such track buyer, the name and address of the vendor, the initial letter and number of the car purchased, the approxi-

mate number of bushels and kind of grain contained therein, and the purchase price per bushel in store at Fort William, Port Arthur or other destination. The grain purchase note also expresses upon its face an acknowledgment of the receipt of the bill of lading issued by the railway company for such carload shipment, the amount of cash paid to the vendor in advance as part payment on account of such car lot purchase, also that the full value of the purchase money will be paid to the vendor immediately the purchaser has received the grade and weight certificates and the railway expense bill. Every such grain purchase note must be signed by the track buyer or his duly appointed agent, and the vendor must endorse his acceptance of the terms of the sale thereon as well as his receipt for payment of the money advanced him on account of such carload lot sale. The proceeds or balances of such carload lots must only be applied in settlement of each such specific transaction.⁹ The provisions which relate to commission merchants apply to licenses issued to track buyers and primary grain dealers.

VII. Investigation Into Complaints.

Inquiry By Board.—Whenever complaint is made, in writing under oath to the Board by any person aggrieved, that the person operating any country elevator (1) fails to give just and fair weights or grades; or (2) is guilty of making unreasonable dockage for dirt or other cause; or (3) fails in any manner to operate such elevator fairly, justly and properly; or (4) is guilty of any discrimination, it is the duty of the Board

⁹ Canada. Annual Statutes, 1919, ch. 40, sec. 19.

to inquire into and investigate such complaint and the charge therein contained. The Board, for such purpose, has full authority to examine and inspect all the books, records and papers pertaining to the business of such elevator and all the scales, machinery and fixtures and appliances used therein, and to take evidence of witnesses under oath, and for that purpose to administer the oath. Upon receipt of such complaint the Board notifies both parties, and furnishes them with a copy of the complaint, and the date and place of holding the investigation.

Decision of Board.—In case the Board finds the complaint and charge therein contained, or any part thereof, true, it gives its decision in writing, and at once serves a copy of such decision upon the person offending and against whom such complaint was made, and also serves a copy upon the owner of such country elevator. The Board directs such owner to make proper redress to the person injured, and may order the discharge of the offending operator, who must not be engaged as manager or assistant in any country elevator for the period of one year from such discharge. Upon the failure of such owner to give such proper redress and discharge such operator the Board cancels the license of the country elevator. In case any other country elevator employs an operator so discharged within the said period of one year the Board can order the dismissal of such operator, and in case of refusal to comply with the request of the Board in this regard the Board cancels the license of the said country elevator.

Influencing Manager to Give Unjust Weight or Take Unjust Dockage.—Every one who being a grain dealer

or a member of a firm dealing in grain or an authorized agent of any such dealer or firm, influences, or attempts to influence, in any manner, either by letter, circular or otherwise, any manager of any country elevator to give unjust weights or to take unjust dockage from any grain being received into such elevator, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five hundred dollars and not less than one hundred dollars.

HAIL INSURANCE.

General.—The hail insurance law is now, practically, confined in the Western Provinces to what is known as Municipal Hail Insurance. This kind of insurance has superseded to a great extent the general hail insurance business carried on by hail insurance companies. There is nevertheless some control of the ordinary hail companies and these will be found in the insurance law.

Municipal. — Municipal hail insurance has become general throughout the West, and in each of the Provinces of Alberta, Saskatchewan and Manitoba statutes dealing with municipal hail insurance have been enacted. These provisions are dealt with later. [See MUNICIPAL HAIL INSURANCE.]

HERD LAW.

I. Alberta.

[Extra-Municipal Areas.]

Generally.—The Minister of Agriculture can by order, published in the Gazette, specify any part of an

extra municipal area, and prohibit therein the running at large of cattle, horses, or sheep.¹ There is, however, an exemption from this order of one hundred cattle or the equivalent thereof for every hundred and sixty acres of land owned within the specified part of the extra municipal area by the actual owner of the cattle. A person who holds the land either in freehold or under a lease for a year at least, or occupies the same under an agreement for sale, is for this purpose deemed to be the owner.

Pound Districts.—See POUND LAW.

Other Cases—See ENTIRE ANIMALS, STRAY ANIMALS, MISCHIEVOUS ANIMALS, DOMESTIC ANIMALS.

II. Saskatchewan.

(Unorganized Areas).

Generally.—The Minister of Agriculture may, by order published in *The Saskatchewan Gazette*, declare that any area described in such order, not within the limits of a city, town, village or rural municipality shall constitute a herd district, and thereafter by order, published in like manner, may enlarge the herd district by adding thereto any township or townships adjoining it, or adjoining the limits of any municipality in which stock is restrained from running at large, or may, by order published as aforesaid, cancel the order or orders constituting such district or any part thereof² Before the addition or withdrawal of any township, the Minister causes a notice of intention to that effect to be published in *The Saskatchewan Gazette*. It is posted in at least one postoffice in each

¹ Alberta. Domestic Animals Act, 1920, sec. 7.

² Saskatchewan. Stray Animals Act, 1920, sec. 11.

township affected, or if there be no postoffice in such township then in the postoffice nearest thereto, at least thirty days prior to the date at which such change is to take effect. The notice is addressed to the postmaster at such postoffice inclosed in a registered cover, and the requirements of the Act respecting the posting of notices is held to be completed at the expiration of twenty-four hours after the first mail carrying such notice is scheduled to reach the postoffice to which the notice is directed. At any time within thirty days after such notice is posted objection may be made to the Minister by any proprietor within such proposed district, to its addition to or its withdrawal from the herd district. In the event of the majority of such proprietors so objecting the said addition or withdrawal is not made, otherwise the proposal may be carried through. All objections are made and the facts and objectors' signatures verified by statutory declaration.

Extension of Herding Period By Minister. — In the event of threshing being unduly delayed, the minister upon being applied to may, by order published in *The Saskatchewan Gazette* and in such newspapers as he may determine, declare a period during which animals may not be allowed to run at large in any part of the herd district described in such order. Any such order has the effect of establishing in the area so described the period during which a proprietor may distrain any animal.

Poundkeepers.—The Minister may appoint such poundkeepers in the district as he may deem necessary. Notice of every such appointment is published in *The*

Saskatchewan Gazette and in such newspapers as he may determine, and specify the name and postoffice address of each poundkeeper and the location of each pound. All poundkeepers so appointed continue in office during the pleasure of the Minister. The publication in *The Saskatchewan Gazette* of a notice of the appointment, or removal of a poundkeeper, or the establishment or abolition of a pound, is evidence that such poundkeeper or pound has been legally appointed, removed, established or abolished, as the case may be.

III. Manitoba.

Generally.—Generally speaking, it is not lawful to allow animals to run at large. This applies particularly to stallions of one year old or upwards, at any time of the year, to bulls, over nine months old, at any time of the year, to rams over four months old, from the first day of August to the first day of April, and to boars, over four months old, at any time of the year. However, the reader must not accept this as the law for all time and for all circumstances. This is merely the general principle of the herd law. It is always advisable to ascertain from the local authorities just what the law is in the particular district under enquiry. These laws vary throughout the province and depend a good deal on whether the district is organized or unorganized.

Stray Animals.—See STRAY ANIMALS.

Other Animals.—See DOMESTIC ANIMALS, SHEEP PROTECTION, MISCHIEVOUS ANIMALS.

HOMESTEADS.

I. Application for Entry.

Act.—The application for an entry for a homestead is made under the provisions of *The Dominion Lands Act*.¹ Every person who is the sole head of a family, or being a male person who has attained 18 years of age, can make entry for a homestead. All such persons must, of course, be British subjects, or, at least, declare intention to become such. The homestead is limited to one homestead of one quarter section of land available for agricultural purposes.

Application for Entry.—The application for the homestead is made at the government land office, in the district in which the land is situated. The office hours are 9 a.m. to 5 p.m. The applicant fills out in the presence of the agent or sub-agent as the case may be, a number of papers. A fee of ten dollars is payable with the application; and the local agent or officer acting for him deals with the application in the order of its receipt.

What Constitutes Entry.—When application is made for land then open to homestead entry, the local agent or officer acting for him accepts it upon payment of the fee and gives a receipt for the ten dollars. The acceptance by the local agent, or the officer acting for him, of the application and of the fee constitutes entry, and the receipt given to the applicant constitutes a certificate of entry and entitles the recipient (1) to take, occupy, use and cultivate the land entered for; (2) to hold possession to the exclusion of any other person,

¹ Canada. Annual Statutes, 1908, ch. 20.

and (3) to bring and maintain actions for trespass committed on the said land. The land is not liable to be taken in execution before the issue of letters patent. Occupancy, use and possession of land entered for as a homestead is subject to the provisions of the homestead laws affecting it, and of any regulations made thereunder.

Application to Sub-agent.—Application may also be made in the same form to a sub-agent in a district in which the land is situate, who gives an interim receipt, and forthwith forwards the application and the fee to the local agent. This application has no force or effect until it is accepted by the local agent or the officer acting for him, who deals with it in the order of its receipt and as if it were made direct. His acceptance constitutes entry, and his receipt constitutes the certificate of entry and conveys the same rights as if the application were made direct. At the request and expense of the applicant, the sub-agent can by telegraph advise the local agent or the officer acting for him of the receipt of his application, and on receiving the advice the local agent or the officer acting for him must, if the applicant has provided for its being done at his expense, acknowledge the advice by telegraph. He holds for the applicant the land applied for during a period of time sufficient to admit of the receiving of the application, and the application, if received within that period, is regarded as received at the time of the receipt of the advice by the local agent. If a sub-agent has received an application for homestead entry for a quarter-section he cannot accept another application for the same quarter-section from any other person

until the first application has been dealt with by the agent.

Personal Application.—Every application for entry must be made by the applicant in person.

Declaration as to Improvements.—A person applying for entry must declare, before being granted entry, what improvements, if any, there are upon the land with respect to which his application is made, and must pay the value of such improvements except those made by himself subject to valuation of same by a homestead inspector. If the improvements are found by a homestead inspector to be of less value than the amount paid by the entrant, the surplus paid is refunded to him, but if the improvements are found to be of greater value, the balance unpaid is paid by the entrant within a period of time satisfactory to the minister. Should the declaration made by the entrant be found incorrect in material particulars, or should the entrant fail to pay the full amount due for improvements, his entry is liable to cancellation in the discretion of the minister. Where at the time an application for entry is made there is a charge against the land for seed grain, fodder or other relief advanced by His Majesty to any previous entrant or holder of the land, exceeding the value of the improvements which are then on the land, an applicant for entry must, in addition to paying the value of the improvements, pay also the difference between the value of the improvements and the seed grain or other indebtedness of the former entrant or holder of land, and where there are no improvements the full amount of such indebtedness must be paid by the new entrant. The payment by a new entrant of

any amount, on account of seed grain, fodder, relief or other indebtedness to the former entrant or holder of such land does not relieve such former entrant from his indebtedness to the Minister, and when subsequently such indebtedness is collected from the party by whom it was originally incurred, it is credited to the new entrant.

Time for Perfecting Entry.—Every entrant for a homestead must perfect his entry. He is allowed six months from the date of the entry within which to perfect such entry, by taking, in his own person, possession of the land and beginning residence thereon. If the entry is not perfected within that period it is liable to cancellation. A further extension can, for satisfactory cause, be given for an additional six months, but in no case can a homestead be so protected from cancellation for more than 12 months from the date of the entry.

Abandonment of Entry.—A homesteader may, by permission of the government, abandon his entry and obtain authority to make another entry.

II. Cancellation of Entry.

Generally.—If an entrant fails, in any year, to fulfil the requirements of the homestead law in respect of his homestead the entry can be cancelled, and thereupon all rights of the entrant cease and determine. However, the government can pay in cash reasonable compensation for improvements, if any, of the person whose entry is cancelled.

Cancellation for Personation.—If the minister is satisfied that an entry for a homestead has been obtained

through personation he can cancel the entry, and the person so obtaining entry is not eligible to obtain another entry.

Cancelling for Timber.—If entry is obtained for land which, though not reserved at the time, is ascertained to be valuable on account of merchantable timber upon it, the government may, within six months of its date, cancel the entry. In the case of an entry so cancelled no compensation is made to the entrant for the value to the said person of the timber on the homestead.

Water Supply and Power Harbours and Landings.—If, after entry is obtained, it is ascertained that the land entered for, or any portion thereof, is necessary for the protection of any water supply or for the location or construction of any works necessary to the development of any water-power, or for the purposes of any harbour or landing, the government may, at any time before the issue of letters patent, cancel the entry or withdraw from its application any portion of the land entered for, but where the land is required for the location or construction of works necessary to the development of any water-power, only in so far as the land is necessary for that purpose. No entry can be cancelled until the entrant has been compensated for any improvements made by him upon the land. In the event of the failure of the entrant to agree to accept the amount allowed by the minister as compensation, the amount is fixed by arbitration.

III. Stock in Lieu of Cultivation.

Generally.—If a report from a homestead inspector shows that a quarter-section held as a homestead, or

purchased homestead, or a half-section held as a homestead and pre-emption, does not contain arable land to the extent necessary to fulfil the requirements of the homestead law with respect to cultivation, the person holding entry for such land is entitled to patent therefor on furnishing evidence that he has fulfilled the other conditions attached to his entry and proving to the satisfaction of the government, in lieu of cultivation, he has complied with the requirements with respect to stock as hereunder provided. In the case of a homestead or purchased homestead, the entrant must show that he has had upon such land stock solely owned by him, during the first year of performance of duties to the number of five head, during the second year to the number of ten head, and during the third year and in each of the subsequent years to the date of his application for patent to the number of sixteen head. In the case of a pre-emption the entrant is required to show when making application for patent that he has had upon his homestead or pre-emption, or on both, stock to the number of at least five head during the first year of performance of duties for such homestead and pre-emption, during the second year stock to the number of at least ten head, and after the expiration of the second year and up to the date of his application for patent for his pre-emption stock to the number of at least twenty-four head, and that he has complied with the other requirements of the homestead law. In the case of a quarter-section having a smaller area than one hundred and sixty acres the number of stock required to be owned and kept thereon is proportionately reduced.

What "Stock" Includes.—The term "stock" includes "cattle" and also sheep and hogs, but where the latter are kept instead of cattle, ten sheep or ten hogs, or ten sheep and hogs, must be kept or be counted as only equivalent to but one head of cattle. The term "cattle" means cows or bulls, or cows and bulls and their young, and horses, male or female, or male and female and their young.

Stock to Be Kept on Homestead.—All stock must be kept on the homestead, pre-emption or purchased homestead, as the case may be, either for summer grazing or for winter feeding. Substantial buildings for the accommodation of the whole number of stock to be kept in any year must be erected and maintained to the satisfaction of the minister during the whole period such stock is to be kept and solely owned by the settler as hereinbefore specified. The buildings must be erected upon the homestead, pre-emption, purchased homestead, or upon any land upon which the settler is entitled to reside.

Annual Report.—The entrant or his legal representative must furnish a statutory declaration duly made and completed according to law, promptly after the expiration of each year during the period that he has kept stock upon his land, as to the numbers thereof he has kept thereon during such year or period and that they are and have been during that year or period, as specified in the statutory declaration, solely owned by him.

Fencing.—The whole quarter-section of land entered for must be enclosed by a substantial fence to the satis-

faction of the minister. No patent can be issued for a homestead, pre-emption or purchased homestead upon which stock is kept in lieu of compliance with the condition of the entry for such homestead, pre-emption or purchased homestead as to the cultivation thereof *until a report by a homestead inspector has been filed in the Department of the Interior showing that the law has been complied with.*

IV. Issue of Title.

Generally.—The entrant for a homestead, or, in the event of his death, his legal representative or his assignee, or, in the event of his becoming insane or mentally incapable, his guardian or committee or any person who, in the event of his death, would be his legal representative, may, after the expiration of the period fixed for the completion of the requirements for obtaining letters patent for a homestead, make application therefor. Upon proving to the satisfaction of the local agent, or the officer acting for him, that the said requirements have been fulfilled, if the proof is accepted by the Commissioner of Dominion Lands, the entrant, or, in the event of his death, his legal representative or his assignee, is entitled to letters patent. Proof must be in the form of a sworn statement by the applicant, corroborated by the sworn statements of two disinterested parties resident in the vicinity, which statements must be made before the local agent, or the officer acting for him, or such other person, as is thereunto authorized. On any application for letters patent by the legal representative of the entrant, or by his assignee, or by the guardian or committee of an entrant who

has become insane or mentally incapable, or by a person who in the event of such an insane entrant's death would be his legal representative, proof of the facts may be received in such manner as may be required, and, upon being satisfied that the claim has been proved, the claim may be allowed and letters patent issued accordingly.

Requirements as to Residence and Cultivation. —

Every entrant for a homestead must, before the issue of letters patent therefor (1) have held the homestead for his own exclusive use and benefit for three years from the date of entry; (2) have resided thereon at least six months in each of three years from the date of entry, or the date of commencement of residence; (3) have erected a habitable house thereon; (4) have cultivated such an area of land in each year upon the homestead as is satisfactory to the government; and (5) be a British subject.

Failing to Apply for Patent.—Failure on the part of an entrant for a homestead to apply for letters patent therefor within a period of five years from the date of entry shall render his right to his homestead liable to forfeiture on the order of the minister.

Selling Homestead Before Patent.—Every one is guilty of an indictable offence and liable to two years' imprisonment who buys, trades or sells, or professes to buy, trade or sell land, or any interest in or control of land, open to homestead entry, or for which homestead entry has been granted, before patent therefor has been issued.

V. Alien Homesteaders.

Generally.—Letters patent for a homestead cannot, under the homestead law, issue to any person who is not a subject of His Majesty by birth or naturalization.² Special cases, upon completion of the requirements for the obtaining of letters patent for a homestead in accordance with the law, or where the completion of such requirements has been dispensed with in accordance with special provisions, letters patent may issue to (1) an alien legal representative of any deceased entrant, whether such entrant was a British subject or not; (2) an alien entrant who has become insane or mentally incapable; (3) an alien entrant who has died while on active service during the European war in progress at the time of the passing of this Act, with any of the military or naval forces of His Majesty or of any of the allies of His Majesty; (4) an alien entrant who is unable to obtain a certificate of naturalization as a British subject owing to his inability to comply with the conditions of *The Naturalization Act, 1914*, by reason of the said alien being on active service during the said war with any of the military or naval forces of His Majesty or of the allies of His Majesty; (5) an alien female entrant who has been granted entry for a homestead and who is prevented by the provisions of *The Naturalization Act, 1914*, from becoming a British subject.³

How Proved.—It is *prima facie* evidence that a person is *not* entitled to obtain letters patent for a home-

² Canada. Annual Statutes, 1918, ch. 19.

³ Canada. Annual Statutes, 1918, ch. 19.

stead if, having been originally a subject of, or resident in, any of the states now at war with His Majesty and having become by naturalization a subject of His Majesty, that person has, at any time since the first day of May, nineteen hundred and fourteen, been in any such state or left Canada to go to any such state. The burden of proof to the contrary is upon such person.⁴

VI. Timber Permits.

Generally.—Permits are granted to cut timber as cordwood, pulpwood, fence posts or telegraph poles, or for mining purposes, over tracts of land not exceeding one square mile in area.⁵

Conditions of Permits.—No person can be granted more than one permit at a time. A permit is not transferable, except with consent, and then only subject to conditions. It is not for a longer period than one year, and only renewable for one year, except in the case of a permit to cut pulpwood, which is renewable from year to year, under regulations established by the Governor-in-Council. There is payable a fee and annual rental, fixed by the government.⁶

IMMIGRATION.

General.—The immigration law is regulated by federal legislation, as being a matter which concerns all Canada. The statute dealing with it is *The Immigration Act*, 1910.¹ This Act deals with the following,

⁴ Canada. Annual Statutes, 1918, ch. 19.

⁵ Canada. Annual Statutes, 1919, ch. 50, sec 4.

⁶ Canada. Annual Statutes, 1919, ch. 50, sec 4.

¹ Canada. Annual Statutes, 1910 ch. 27, as altered by the Annual Statutes, 1911, 1914, 1919. A consolidation of these laws in pamphlet form can be obtained from the Department of Immigration, Ottawa, Canada.

amongst other matters:— Appointment of officers (secs. 5-9), appeals under (secs. 18-21), assistance in cases of emergency (sec. 7), beggars (sec. 3 (g)), bills of health (sec. 26), boards of inquiry (secs. 13-22), boarding houses (sec. 71, and P.C. 919), citizenship (sec. 2 (f)), charity-aided immigrants (sec. 3 (h)), constables' duties (sec. 11), criminal immigrants (sec. 3 (d), 40, 43), deceased passengers' property (sec. 49 (3)), deportation (secs. 2, 3, 6, 7, 8, 11, 37, 38, 40, 41, 42, 43), deserters (sec. 52), domicile 2 (d), employment agencies (sec. 66), female immigrants (sec. 57), landing immigrants (sec. 33), mental defectives (secs. 3, 52), money requirements (sec. 37, P.C. 924, P.C. 24), prohibited immigrants (sec. 3), quashing convictions (sec. 77), tourists (sec. 2 (g)), vagrants (sec. 3 (g)). This statute is supplemented by *Immigration Rules*, dealing with:—primary inspection, manifests, evidence, appeals, literacy test, passports, U. S. immigration, arrests and administration. Furthermore, there are *Orders-in-Council* dealing with:—monetary qualifications (P.C. 924, 24); passports (P.C. 918); continuous journey (P.C. 23); immigration buildings (P.C. 269); Boarding-houses (P.C. 919); Mennonites, etc. (P.C. 1204); alien enemies (P.C. 1203), and labourer immigrants (P.C. 1202).

Chinese Immigration.—The general immigration law with regard to Chinese immigrants will be found in *The Chinese Immigration Act*, ch. 95 of the Revised Statutes of Canada, 1906, as amended from time to time. This statute is supplemented by the general immigration law.

INCOME TAX.**I. Income.**

Generally.—Income means the annual net profit or gain or gratuity, whether ascertained and capable of computation as being wages, salary or other fixed amount, or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling, directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture or business, as the case may be, whether derived from sources within Canada or *elsewhere*.¹ It includes the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and, whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source; including the income from, but not the value of property acquired by gift, bequest, devise or descent; and including the income from, but not the proceeds of, life insurance policies paid upon the death of the person insured, or payments made or credited to the insured on life insurance endowment or annuity contracts upon the maturity of the term mentioned in the contract or upon the surrender of the contract.² It includes the salaries, indemnities or other remuneration of members of the Senate and House of Commons of Canada and officers thereof, members of Provincial Legislative Councils and Assemblies and Municipal Councils, Com-

¹ Dominion, 1919, ch. 55, sec. 2.

² Dominion, 1917, ch. 28, sec. 3.

missions or Boards of Management, any Judge of any Dominion or Provincial Court appointed after the passing of this Act, and of all persons whatsoever whether the said salaries, indemnities or other remuneration are paid out of the revenues of His Majesty in respect of His Government of Canada, or of any province thereof, or by any person, except as otherwise provided in the Act.³

Holding Companies.—Where an incorporated company conducts its business, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit its shareholders or any of them, or any persons directly or indirectly interested in such company, by selling its product or the goods and commodities in which it deals at less than the fair price which might be obtained therefor, the Minister may, for the purposes of this Act, determine the amount which shall be deemed to be the income of such company for the year, and in determining such amount the Minister shall have regard to the fair price which, but for any agreement, arrangement or understanding, might be or could have been obtained for such product, goods and commodities.

Non-residents.—In the case of the income of persons residing or having their head office or principal place of business outside of Canada, but carrying on business in Canada, either directly or through or in the name of any other person, the income shall be the net or gain arising from the business of such person in Canada.

Undistributed Profits of Corporations.—The share of a taxpayer in the undivided or undistributed gains and

³ Dominion, 1919, ch. 55, sec. 2.

profits of a corporation shall not be deemed to be taxable income of the taxpayer, unless the Minister is of opinion that the accumulation of such undivided and undistributed gains and profits is made for the purpose of evading the tax, and is in excess of what is reasonably required for the purposes of the business.

Dividends and Shareholders' Bonuses.—Dividends or shareholders' bonuses paid or credited to its shareholders by a corporation on or after the first day of January, one thousand nine hundred and seventeen, shall be taxable as income of the shareholder in the year in which the same are received or credited unless paid exclusively out of a surplus or accumulated profits on hand prior to the first day of January, one thousand nine hundred and seventeen. No dividend or shareholders' bonus shall be deemed to be paid or credited out of surplus or accumulated profits on hand prior to the first day of January, one thousand nine hundred and seventeen, if the earnings of the corporation since the beginning of the accounting period which ended in the year one thousand nine hundred and seventeen are sufficient to provide for the said dividend and other taxable dividends paid or credited since the said date.

Income from an Estate.—Income of a beneficiary of an estate shall be deemed to include the amount accruing during each taxation year to which he, his heirs or assigns are entitled from the income of the estate, whether distributed or not.

Money Retained by Employer for Pension, etc.—Any part of the remuneration of a taxpayer retained by his employer in connection with an employee's superannuation or pension fund or plan shall be allowed as an

exemption or deduction from the income of the taxpayer for income purposes, and any payment to an employee out of such fund or plan shall be included as taxable income of the employee.

II. Incomes Not Taxable.

Incomes Not Liable to Tax.—The following incomes are not liable to taxation:—

- (a) the income of the Governor-General of Canada;
- (b) the incomes of Consuls and Consuls General who are citizens of the country they represent and who are not engaged in any other business or profession;
- (c) the income of any company, commission or association not less than ninety per cent. of the stock or capital of which is owned by a province or a municipality;
- (d) the income of any religious, charitable, agricultural and educational institutions, Boards of Trade and Chambers of Commerce;
- (e) the incomes of labour organizations and societies and of benevolent and fraternal beneficiary societies and orders;
- (f) the incomes of mutual corporations not having a capital represented by shares, no part of the income of which inures to the profit of any member thereof, and of life insurance companies, except such amount as is credited to shareholders' account;
- (g) the incomes of clubs, societies and associations organized and operated solely for social welfare, civic improvement, pleasure, recreation or

other non-profitable purposes, no part of the income of which inures to the benefit of any stockholder or member;

- (h) the incomes of such insurance, mortgage and loan associations operated entirely for the benefit of farmers as are approved by the Minister;
- (i) the income derived from any bonds or other securities of the Dominion of Canada issued exempt from any income tax imposed in pursuance of any legislation enacted by the Parliament of Canada;
- (j) the military and naval pay of persons who have been on active service overseas during the present war in any of the military or naval forces of His Majesty or any of His Majesty's allies;
- (k) the income of incorporated companies whose business and assets are carried on and situate entirely outside of Canada; and
- (l) income derived from any pension granted to any member of His Majesty's military, naval or air forces for any disability suffered by the pensioner while serving in His Majesty's forces during the war that begun in August, 1914, and the income derived from any pension granted to any dependent relative of any person who was killed or suffered any disability while serving in the said forces in the said war.

III. The Amount of the Tax.

Persons.—Income tax is assessed, levied and paid upon the income during the preceding year of every person residing in Canada for six months or more of such

year or who having been resident in Canada has left Canada with the intention of resuming residence in Canada, or who is employed in Canada or is carrying on any business in Canada, and, except, corporations and joint stock companies, such every person must pay the following taxes:—

(1) NORMAL TAX.

4% upon all income exceeding \$1,000, but not exceeding \$6,000, in the case of unmarried persons, and widows or widowers, without dependent children, and persons who are not supporting dependent brothers or sisters under the age of eighteen years, or a dependent parent or parents, grandparent or grandparents, and exceeding two thousand dollars, but not exceeding six thousand dollars in the case of all other persons.⁴
8% upon all income exceeding six thousand dollars.⁵

(2) SURTAX.

1% upon the amount by which the income exceeds \$5,000 and does not exceed \$6,000.
2% upon the amount by which the income exceeds \$6,000, and does not exceed \$8,000.
3% upon the amount by which the income exceeds \$8,000 and does not exceed \$10,000.
4% upon the amount by which the income exceeds \$10,000 and does not exceed \$12,000.
5% upon the amount by which the income exceeds \$12,000 and does not exceed \$14,000.
6% upon the amount by which the income exceeds \$14,000 and does not exceed \$16,000.
7% upon the amount by which the income exceeds \$16,000 and does not exceed \$18,000.
8% upon the amount by which the income exceeds \$18,000 and does not exceed \$20,000.
9% upon the amount by which the income exceeds \$20,000 and does not exceed \$22,000.
10% upon the amount by which the income exceeds \$22,000 and does not exceed \$24,000.
11% upon the amount by which the income exceeds \$24,000 and does not exceed \$26,000.
12% upon the amount by which the income exceeds \$26,000 and does not exceed \$28,000.
13% upon the amount by which the income exceeds \$28,000 and does not exceed \$30,000.
14% upon the amount by which the income exceeds \$30,000 and does not exceed \$32,000.
15% upon the amount by which the income exceeds \$32,000 and does not exceed \$34,000.
16% upon the amount by which the income exceeds \$34,000 and does not exceed \$36,000.
17% upon the amount by which the income exceeds \$36,000 and does not exceed \$38,000.
18% upon the amount by which the income exceeds \$38,000 and does not exceed \$40,000.
19% upon the amount by which the income exceeds \$40,000 and does not exceed \$42,000.

⁴ Dominion, 1919, ch. 55, sec. 8.

⁵ Dominion, 1919, ch. 55, sec. 8.

- 20% upon the amount by which the income exceeds \$42,000 and does not exceed \$44,000.
- 21% upon the amount by which the income exceeds \$44,000 and does not exceed \$46,000.
- 22% upon the amount by which the income exceeds \$46,000 and does not exceed \$48,000.
- 23% upon the amount by which the income exceeds \$48,000 and does not exceed \$50,000.
- 24% upon the amount by which the income exceeds \$50,000 and does not exceed \$52,000.
- 25% upon the amount by which the income exceeds \$52,000 and does not exceed \$54,000.
- 26% upon the amount by which the income exceeds \$54,000 and does not exceed \$56,000.
- 27% upon the amount by which the income exceeds \$56,000 and does not exceed \$58,000.
- 28% upon the amount by which the income exceeds \$58,000 and does not exceed \$60,000.
- 29% upon the amount by which the income exceeds \$60,000 and does not exceed \$62,000.
- 30% upon the amount by which the income exceeds \$62,000 and does not exceed \$64,000.
- 31% upon the amount by which the income exceeds \$64,000 and does not exceed \$66,000.
- 32% upon the amount by which the income exceeds \$66,000 and does not exceed \$68,000.
- 33% upon the amount by which the income exceeds \$68,000 and does not exceed \$70,000.
- 34% upon the amount by which the income exceeds \$70,000 and does not exceed \$72,000.
- 35% upon the amount by which the income exceeds \$72,000 and does not exceed \$74,000.
- 36% upon the amount by which the income exceeds \$74,000 and does not exceed \$76,000.
- 37% upon the amount by which the income exceeds \$76,000 and does not exceed \$78,000.
- 38% upon the amount by which the income exceeds \$78,000 and does not exceed \$80,000.
- 39% upon the amount by which the income exceeds \$80,000 and does not exceed \$82,000.
- 40% upon the amount by which the income exceeds \$82,000 and does not exceed \$84,000.
- 41% upon the amount by which the income exceeds \$84,000 and does not exceed \$86,000.
- 42% upon the amount by which the income exceeds \$86,000 and does not exceed \$88,000.
- 43% upon the amount by which the income exceeds \$88,000 and does not exceed \$90,000.
- 44% upon the amount by which the income exceeds \$90,000 and does not exceed \$92,000.
- 45% upon the amount by which the income exceeds \$92,000 and does not exceed \$94,000.
- 46% upon the amount by which the income exceeds \$94,000 and does not exceed \$96,000.
- 47% upon the amount by which the income exceeds \$96,000 and does not exceed \$98,000.
- 48% upon the amount by which the income exceeds \$98,000 and does not exceed \$100,000.
- 52% upon the amount by which the income exceeds \$100,000 and does not exceed \$150,000.
- 56% upon the amount by which the income exceeds \$150,000 and does not exceed \$200,000.
- 60% upon the amount by which the income exceeds \$200,000 and does not exceed \$300,000.
- 63% upon the amount by which the income exceeds \$300,000 and does not exceed \$500,000.

64% upon the amount by which the income exceeds \$500,000 and does not exceed \$1,000,000.
65% upon the amount by which the income exceeds \$1,000,000.⁶

Corporations.—Corporations and joint stock companies, no matter how created or organized, pay 10 per centum upon income exceeding \$2,000. Any corporation or joint stock company, the fiscal year of which is not the calendar year, must make a return and have the tax payable by it computed upon its income for its fiscal year ending within the calendar year for which the return is being made.⁷

Partnerships.—Any persons carrying on business in partnership are liable for the income tax only in their individual capacity. A husband and wife carrying on business together are not deemed to be partners for any purpose under the Act. A member of a partnership or the proprietor of a business whose fiscal year is other than the calendar year must make a return of his income from the business, for the fiscal period ending within the calendar year for which the return is being made, but his return of income derived from sources other than his business must be made for the calendar year.⁸

Deductions Allowed from Amount of Tax.—Taxpayers are entitled to the following deductions from the amount that would otherwise be payable by them for taxes under the provisions of the Act:—

- (a) the amount paid by such taxpayer for corresponding accounting periods under the provisions of Part I of *The Special War Revenue Act, 1915*, and any amendments thereto, or *The Business*

⁶ Dominion, 1919, ch. 55, sec. 8.

⁷ Dominion, 1919, ch. 55, sec. 8.

⁸ Dominion, 1919, ch. 55, sec. 8.

Profits War Tax Act, 1916, and any amendments thereto: Provided, that in computing the taxable income the taxpayer must not include any taxes paid under the said Acts in the expenses of his business. The Minister has power to determine any questions that may arise in consequence of any difference in the several periods for which the taxes under the said Acts and under *The Income Tax Act*, respectively, are payable, and the decision of the Minister is final and conclusive. In the case of a partnership, each partner is entitled to deduct such portion of the tax paid by the partnership under *The Business Profits War Tax Act*, 1916, and any amendments thereto, as may correspond to his interest in the income of the partnership. Such deduction does not affect the liability of the taxpayer to tax in respect of any income which does not form part of the profits assessed under *The Business Profits War Tax Act*, 1916, but such income is assessed for income tax purposes in the same manner as if it were the only income of the taxpayer;

- (b) the amount paid to Great Britain or any of its self-governing colonies or dependencies for income tax in respect of the income of the taxpayer derived from sources therein, and the amount paid to any foreign country for income tax in respect of the income of the taxpayer derived from sources therein, if, and only if, such foreign country in imposing such tax allows a similar credit to persons in receipt of income derived from sources within Canada. Such deduc-

tion must not at any time exceed the amount of tax which would otherwise be payable under the provisions of section 3 of chapter 25 of the statutes of 1918, or of any amending Act, in respect of the said income derived from sources within Great Britain or any of its self-governing colonies or dependencies or any foreign country. Further, the deduction is allowed only if the taxpayer furnishes evidence satisfactory to the Minister showing the amount of tax paid and the particulars of income derived from sources within Great Britain or any of its self-governing colonies or dependencies or any foreign country.⁹

IV. Exemptions and Deductions.

Generally.—Certain exemptions and deductions from income are allowed by the Act.

Mines, Gas and Oil Wells, and Timber Limits.—A reasonable amount is allowed for depreciation. The Minister in determining the income derived from mining and from oil and gas wells and timber limits makes an allowance for the exhaustion of the mines, wells and timber limits as he may deem just and fair.

Children.—For the purposes of the normal tax only, two hundred dollars for each child under 18 years of age who is dependent upon the taxpayer for support is allowed.

Red Cross.—Amounts paid by the taxpayer during the year to the Patriotic and Canadian Red Cross Funds and other patriotic and war funds approved by the Minister are allowed.

⁹ Dominion, 1919, ch. 55, sec. 3.

Dividends.—Dividends received by or credited to shareholders of a corporation which is liable to taxation under the provisions of the Act are not liable to the normal tax in the hands of the shareholders, but are liable to the supertax and surtax provisions of the Act or any amendment thereto. The amount of the exemption from the normal tax to the shareholder cannot exceed the net amount of such dividends after the deduction of the interest or carrying charges, if any, in respect of such dividends.

Personal and Living Expenses.—In determining the income no deduction is allowed in respect of personal and living expenses. In cases in which personal and living expenses form part of the profit, gain or remuneration of the taxpayer, the same are assessed as income for the purposes of the Act.

Losses.—Deficits or losses sustained in transactions entered into for profit, but not connected with the chief business, trade, profession or occupation of the taxpayer cannot be deducted from income derived from the chief business, trade, profession or occupation of the taxpayer in determining his taxable income.

V. How a Return is Made.

Generally.—Every person liable to taxation must, on or before the 30th day of April in each year, *without any notice or demand* (and any person, whether liable to taxation or not, upon receipt of a notice or demand in writing from the Commissioner of Taxation or any officer authorized to make such demand) deliver, to the Minister a return, in such form as the Minister may prescribe, of his total income during the last preceding

year. In such return the taxpayer must state an address in Canada to which all notices and other documents are to be mailed or sent.

Corporations.—The return in the case of a corporation, association or other body, must be made and signed by the president, secretary, treasurer or chief agent having a personal knowledge of the affairs of such corporation, association or other body, or, in any case, by such other person or persons employed in the business liable, or believed to be liable, to taxation, as the Minister may require.

Guardian, Legal Representative.—If a person is unable for any reason to make the return, such return must be made by the guardian, curator, tutor or other legal representative of such person, or if there is no such legal representative, by some one acting as agent for such person, and in the case of the estate of any deceased person, by the executor, administrator or heir of such deceased person, and if there is no person to make a return under these provisions, then by the person who the Minister requires to make such return.

Employers of Salaries, and by Companies of Dividends.—All employers must make a return of all persons in their employ receiving any salary or other remuneration, and all corporations, associations and syndicates must make a return of all dividends and bonuses paid to shareholders and members, and all persons in whatever capacity acting, having the control, receipt, disposal or payment of fixed or determinable annual or periodical gains, profits or income of any taxpayer, must make and render a separate and distinct return to the Minister of such gains, profits or income, con-

taining the name and address of each taxpayer. These returns must be delivered to the Minister on or before the 31st day of March in each year, without any notice or demand being made therefor, and in such form as the Minister may prescribe.

Extending Time.—The Minister may at any time enlarge the time for making any return.

Partnerships Not Liable to Tax.—Persons carrying on business in partnership are liable for the income tax only in their individual capacity.

Transfer of Property to Evade Taxation.—A person who, after the 1st day of August, 1917, has reduced his income by the transfer or assignment of any real or personal, movable or immovable property, to such person's wife or husband, as the case may be, or to any member of the family of such person, is, nevertheless, liable to be taxed as if such transfer or assignment had not been made, unless the Minister is satisfied that such transfer or assignment was not made for the purpose of evading the taxes imposed under the Act or any part thereof.

Penalty for Not Making Return.—Every person required to make a return who fails to make a return within the time limited therefor is subject to a penalty of 25 per centum of the amount of the tax payable, and every person who is specially required to make a return and who fails to do so within the time limited therefor, is subject to a penalty of \$10 for each day during which the default continues. All such penalties are assessed and collected from the person liable to make the return in the same manner in which taxes are assessed and collected.

VI. Assessment, Levy and Collection.

Assessment.—The Minister, on or before the 31st day of October in each year (or on or before such other date as he may in any case or cases prescribe) determines the several amounts payable for the tax, and thereupon sends by registered mail a notice of assessment, to each taxpayer, notifying him of the amount payable by him for the tax. The tax must be paid within one month from the date of mailing of the notice of assessment. In default of payment within the said one month from the date of the mailing of the assessment notice, a penalty of 5 per centum of the amount of such tax is added thereto, and thereafter a further penalty of 1 per centum per month added for each additional month or portion thereof during which the tax and penalty remain unpaid. The Minister is not to be bound by any return or information supplied by or on behalf of a taxpayer, and notwithstanding such return or information, or if no return has been made, the Minister may determine the amount of the tax to be paid by any person.

Continuation of Liability for Tax.—Persons liable to pay the tax continue to be liable, and in case any person so liable fails to make a return as required by the Act, or makes an incorrect or false return, and does not pay the tax in whole or in part, the Minister may at any time assess such person for the tax, or such portion thereof as he may be liable to pay, and may prescribe the time within which any appeals may be made under the provisions of the Act from the assessment, or from the decision of the Board, and may fix the date of payment of the tax.

Refunds.—The Minister may refund any tax or penalty wrongfully or illegally assessed and collected, but no refund is allowed because of any alleged error in the assessment, unless application therefor is made within twelve months of the date of the payment of the tax or penalty.

Bank Charges.—Chartered banks of Canada receive for deposit, without any charge for discount or commission, cheques made payable to the Receiver-General of Canada in payment of tax or penalty imposed by the Act, whether drawn on the bank receiving the cheque or on any other chartered bank in Canada.

Information, Inquiries and Books of Accounts.—If the Minister, in order to enable him to make an assessment, desires further information, or if he suspects that any person who has not made a return is liable to taxation hereunder, he may, by registered letter, require additional information, or a return containing such information as he deems necessary, to be furnished him within thirty days. The Minister may require the production, or the production on oath, by the taxpayer or by his agent or officer, or by any person or partnership holding, or paying, or liable to pay, any portion of the income of any taxpayer, of any letters, accounts, invoices, statements and other documents. Any officer authorized thereto by the Minister may make such inquiry as he may deem necessary for ascertaining the income of any taxpayer, and for the purposes of such inquiry such officer shall have all the powers and authority of a commissioner appointed under Part I of *The Inquiries Act*, Revised Statutes of Canada, 1906, chapter 104. If a taxpayer fails or refuses to keep adequate

books or accounts for Income Tax purposes, the Minister may require the taxpayer to keep such records and accounts as he may prescribe. For every default in complying with these provisions next preceding, the taxpayer, and also the person or persons required to make a return, shall each be liable on summary conviction to a penalty of \$100 for each day during which the default continues. Persons making false statements in any return or in any information required by the Minister are liable on summary conviction to a penalty not exceeding \$10,000 or to six months' imprisonment, or to both fine and imprisonment.

Secrecy.—No person employed in the service of His Majesty is allowed to communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of the Act, or allow any person to inspect or have access to any written statement furnished under the provisions of the Act. Any person violating this provision is liable on summary conviction to a penalty not exceeding \$200.

Board of Referees.—The Governor-in-Council may appoint a Board or Boards of Referees, and may prescribe the territory or district within which a Board shall exercise jurisdiction. A Board consists of not more than three members, and the members of a Board jointly and severally have all the powers and authority of a commissioner appointed under Part I of *The Inquiries Act*, Revised Statutes of Canada, 1906, chapter 104. Every member of the Board takes an oath of office before performing any duty under the Act.

Court of Revision.—A Board acts as a Court of Revision, and hears and determines any appeal made by

a taxpayer under this Act in such place in Canada as the Minister may direct.

Notice of Appeal.—Any person objecting to the amount at which he is assessed, or as having been wrongfully assessed, may, personally or by his agent, within twenty days after the date of mailing of the notice of assessment, give notice in writing to the Minister in the form set out in the Act that he considers himself aggrieved for either of the causes aforesaid, otherwise such person's right to appeal ceases, and the assessment made stands and is valid and binding upon all parties concerned, notwithstanding any defect, error or omission that may have been made therein, or in any proceeding required by the Act or any regulation hereunder. The Minister, either before or after the expiry of the said twenty days, may give a taxpayer further time in which to appeal.

Hearing and Decision by Board.—A Board, after hearing any evidence adduced, and upon such other inquiry as it considers advisable, determines the matter and confirms or amends the assessment accordingly. A Board may increase the assessment in any case before it. The Board sends a copy of its decision by registered mail to the taxpayer or his agent or officer. In any case where the appeal is unsuccessful, the Board may direct that the person who appealed shall pay the costs or part of the costs of such appeal; and if such appeal is successful, a Board may recommend that the costs or any part thereof be paid by the Crown. The tariff of fees is prescribed by the Board.

Proceeding ex Parte.—If the taxpayer fails to appear, either in person or by agent, the Board may pro-

ceed *ex parte*, i.e., proceed in his absence, or may defer the hearing.

Appeal to Exchequer Court.—If the taxpayer is dissatisfied with the decision of a Board, he may, within twenty days after the mailing of the decision, give a written notice to the Minister in the form set out in the Act that he desires to appeal from such decision. If the taxpayer gives such notice, or if the Minister is dissatisfied with the decision, the Minister refers the matter to the Exchequer Court of Canada for hearing and determination. A reference may be made in form IV of the Schedule to the Act, and the Minister notifies the taxpayer by registered letter that he has made such reference. On any such reference the Court hears and considers such matter upon the papers and evidence referred, and upon any further evidence which the taxpayer or the Crown produces under the direction of the Court, and the decision of the Exchequer Court thereon is final and conclusive.

Exclusive Jurisdiction of Exchequer Court.—The Exchequer Court has exclusive jurisdiction to hear and determine all questions that may arise in connection with any proceeding taken under the Act, and may award costs in connection therewith.

No Assessment to be Set Aside for Technical Reasons.—No assessment can be set aside by a Board or by the Court upon the ground that there has been any error or omission in connection with any proceedings required to be taken under this Act or any regulation hereunder, but such Board or Court in any case that may come before it may determine the true and proper amount of the tax to be paid hereunder. All the pro—

ceedings of the Board and of the Exchequer Court are held *in camera* if requested by the taxpayer.

Recovery of Tax.—The taxes and all interest and costs assessed or imposed under the provisions of the Act are recoverable as a debt due to His Majesty from the person on whom it is assessed or imposed. Any tax, interest, costs or penalty that may be assessed, recovered or imposed under the Act may, at the option of the Minister, be recovered and imposed in the Exchequer Court of Canada or in any other Court of competent jurisdiction in the name of His Majesty.

INTEREST.

I. Generally.

Interest. — Interest is the money which is paid or allowed for the loan or use of some other sum, lent at a fixed rate. The sum lent is called “the principal.” The interest is called “rate per cent.” The principal and interest added together is called “the amount.” There are two kinds of interest:—(1) Simple, that is, interest paid for the principal, or sum lent, at a certain rate or allowance made by law or agreement of parties; or (2) Compound, that is, where the arrears of interest of one year are added to the principal, and the interest for the following year is calculated on that accumulation.

Rate of Interest. — Any person may stipulate for, allow and exact on any contract or agreement any rate of interest or discount which is agreed upon unless it is otherwise provided in any particular law. There are special provisions in *The Interest Act* and in the *Pawn-brokers Acts*.

Where No Rate Fixed.—Whenever any interest is payable by the agreement of the parties or by law, and no rate is fixed by the agreement or by special law then the rate of interest is five per cent. *per annum*.¹ This, however, does not apply to liabilities existing immediately before 7 July, 1900.

Rates Not "Per Annum."—Whenever any interest is by the terms of any written or printed contract whether under seal or not, made payable at a rate or percentage *per day, week, month*, or at any rate or percentage for any period less than a year no interest exceeding the rate or percentage of five per centum (5%) *per annum* is chargeable, payable or recoverable on any part of the principal money unless the contract contains an express statement of the yearly rate or percentage of interest to which such other rate or percentage is equivalent.² This provision, however, does not apply to mortgages on real estate.³ If any sum is paid on account of any interest not chargeable, payable or recoverable as so provided, such sum may be recovered back or deducted from any principal or interest payable under such contract.⁴

II. Real Estate Mortgages.

Generally.—Whenever any principal money or interest secured by mortgage of real estate is, by the same, made payable on the sinking fund plan, or on any plan under which the payments of principal money and interest are blended, or on any plan which involves an allowance of interest on stipulated repayments, no in-

¹ Dominion, R.S.C., 1906, ch. 120, sec. 3.

² Dominion, R.S.C., 1906, ch. 120, sec. 4.

³ Dominion, R.S.C., 1906, ch. 120, sec. 4.

⁴ Dominion, R.S.C., 1906, ch. 120, sec. 5.

terest whatever is chargeable, payable or recoverable, on any part of the principal money advanced, unless the mortgage contains a statement showing the amount of such principal money and the rate of interest chargeable thereon, calculated yearly or half-yearly, not in advance.⁵

No Rate Recoverable Beyond That So Stated.—Whenever the rate of interest shown in such statement is less than the rate of interest which would be chargeable by virtue of any other provision, calculation or stipulation in the mortgage, no greater rate of interest is chargeable, payable or recoverable, on the principal money advanced, than the rate shown in such statement.⁶

No Fine, Etc., Allowed on Payments in Arrears.—No fine or penalty or rate of interest can be stipulated for, taken, reserved or exacted on any arrears of principal or interest secured by mortgage of real estate, which has the effect of increasing the charge on any such arrears beyond the rate of interest payable on principal money not in arrear. This does not prohibit the making of a contract for the payment of interest on arrears of interest or principal at any rate not greater than the rate payable on principal money not in arrear.⁷

Overcharge May Be Recovered Back.—If any sum is paid on account of any interest, fine or penalty not chargeable, payable or recoverable as above, such sum may be recovered back, or deducted from any other in-

⁵ Dominion, R.S.C., 1906, ch. 120, sec. 6.

⁶ Dominion, R.S.C., 1906, ch. 120, sec. 7.

⁷ Dominion, R.S.C., 1906, ch. 120, sec. 8.

terest, fine or penalty chargeable, payable or recoverable on the principal.⁸

Interest Payable After Five Years.—Whenever any principal money or interest secured by mortgage of real estate is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then, if, at any time after the expiration of such five years, any person liable to pay or entitled to redeem the mortgage tenders or pays, to the person entitled to receive the money, the amount due for principal money and interest to the time of payment, as calculated under the above provisions, together with three months' further interest in lieu of notice, no further interest is chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage. This does not apply to any mortgage upon real estate given by a joint stock company or other corporation, nor to any debenture issued by any such company or corporation, for the payment of which security has been given by way of mortgage on real estate.⁹

Interest on Judgment Debt.—Any sum of money or any costs, charges or expenses made payable by or under any judgment, decree, rule or order of any court whatsoever in any civil proceeding is deemed to be a judgment debt.

From What Time Calculated.—Unless it is otherwise ordered by the court, such interest can be calculated from the time of the rendering of the verdict or of the

⁸ Dominion, R.S.C., 1906, ch. 120, sec. 9.

⁹ Dominion, R.S.C., 1906, ch. 120, sec. 10.

¹⁰ Dominion, R.S.C., 1906, ch. 120, sec. 15.

giving of the judgment, as the case may be, notwithstanding that the entry of judgment upon the verdict or upon the giving of the judgment has been suspended by any proceedings either in the same court or in appeal.¹¹

Interest on Judgment at 5 Per Centum.—Every judgment debt bears interest at the rate of five per centum per annum until it is satisfied.¹²

JUDGMENTS, EXECUTIONS AND ATTACHMENTS

Judgments.—The decision finally deciding a matter in dispute between parties to an action is known as a judgment. The successful party is called the judgment creditor, and the party against whom the decision is given the judgment debtor. Frequently the judgment merely determines that the judgment creditor is entitled to recover from the judgment debtor a specified sum of money. When the judgment is entered in the records, the clerk of the court, on application, issues a writ of execution directed to the sheriff requiring him to realize out of the goods or lands or both of the debtor the amount of the judgment, together with costs. The sheriff may then seize, and after proper proceedings, sell enough of the goods of the judgment debtor to realize the amount of the debt and costs of seizure and sale.

Executions.—When a writ of execution is directed against lands the sheriff is required to send to the registrar of land titles for the district in which such lands are situated a copy of the execution. A record

¹¹ Dominion, R.S.C., 1906, ch. 120, sec. 14.

¹² Dominion, R.S.C., 1906, ch. 120, sec. 13.

of such writ is entered in the land titles office against the name of the judgment debtor and binds all his lands in such district from the date of its receipt by the registrar. Whenever a transfer from such judgment debtor is delivered at the land titles office for registration a search is made to discover whether any executions are registered against him, and if any are found they are placed upon a new certificate of title or an execution creditor may direct the sheriff and registrar to place such execution in the first place against certain lands standing in the name of the execution debtor.

Creditors' Relief.—In order to prevent an execution creditor getting too great an advantage over other creditors of the same debtor it is provided that where a sheriff levies money under an execution such money shall be distributed proportionately among all execution creditors and other creditors whose executions or certificates are in the sheriff's hands at the time of the levy or receipt of the money, or who deliver their executions or certificates to the sheriff within one month after he has made entry in his books of such levy. The certificate referred to is issued by the clerk of the district court after the filing with him of an affidavit of claim and a notice to be served therewith upon the debtor. The proceedings relating to the filing of such certificate are complicated, and the services of a solicitor are indispensable if mistakes are to be avoided.

Attachment of Debts.—In an action for a fixed sum of money the plaintiff is entitled to issue a summons known as a garnishee summons. The summons is served upon a person requiring him to pay any moneys

which he owes the defendant (or which are in his hands belonging to the defendant) into court to the credit of the action or, if he owes more than the amount of the plaintiff's claim he may pay into court a sum sufficient to meet the claim.

Attachment of Goods.—No goods of the defendant to the action can usually be seized until *after* judgment has been recovered. However, the debtor's property may be attached if the plaintiff is able to show upon affidavit the cause of the debt, the amount thereof, and that he has good reason to believe that the defendant has absconded from or is about to abscond from the province leaving no personal property liable to seizure for debt or has attempted to remove such personal property out of the province or to sell and dispose of the same with intent to defraud his creditors generally, or the plaintiff particularly; or keeps concealed to avoid service of process and that the plaintiff verily believes that without the benefit of such judgment the plaintiff will lose his debt or sustain damage for the amount. An affidavit must be filed to the same effect by one or other credible person who is well acquainted with the defendant.

JUVENILE DELINQUENTS.

Generally.—Juvenile crime is on the increase. Various reasons have been given for this increase, but there seems to be no way of meeting present conditions. A very common kind of offence committed by juveniles is that of joy riding with automobiles which are left outside theatres, etc. This matter, however, has had serious consideration by the Legislature, and by a recent

amendment to the Criminal Code of Canada imprisonment without option now is given in the first instance. There has been a notable change in the treatment of juvenile offenders during the last few years. They are now dealt with separately and apart altogether from ordinary criminals. It is considered inexpedient that youthful offenders should be classed or dealt with as ordinary criminals, the welfare of the community demanding that they should, on the contrary, be guarded against association with crime and criminals, and should be subjected to such wise care, treatment and control as will tend to check their evil tendencies and to strengthen their better instincts, and for this purpose a procedure has been set out for dealing with juvenile delinquents, and a statute known as *The Juvenile Delinquents Act*,¹ was passed for this purpose.

Definitions.—Unless the context otherwise requires—

- (a) "child" means a boy or girl apparently or actually under the age of sixteen years;
- (b) "guardian" includes any person who has in law or in fact the custody or control of any child;
- (c) "juvenile delinquent" means any child who violates any provision of *The Criminal Code*, chapter 146, of the Revised Statutes, 1906, or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, for which violation punishment by fine or imprisonment may be awarded; or, who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute;

¹ Canada, 1908, ch. 40.

- (d) "probation officer" means any duly appointed probation officer for juvenile delinquents;
- (e) "justice" has the same meaning as it has in *The Criminal Code*;
- (f) "the court" or "the juvenile court" means any court duly established under any provincial statute for the purpose of dealing with juvenile delinquents, or specially authorized by provincial statute, the Governor-in-Council, or the Lieutenant-Governor-in-Council, to deal with juvenile delinquents;
- (g) "the judge" means the judge of a juvenile court seized of the case, or the justice, specially authorized by Dominion or provincial authority to deal with juvenile delinquents, seized of the case;
- (h) "industrial school" means any industrial school or juvenile reformatory or other reformatory institution or refuge for children duly approved by provincial statute or by the Lieutenant-Governor-in-Council in any province.

Juvenile Courts.—The Juvenile Court has exclusive jurisdiction in cases of delinquency except in case of indictable offences committed by a child over 14 years of age.² Prosecutions and trials are summary, under the provisions of Part XV of *The Criminal Code*, in so far as such provisions are applicable, whether or not the act constituting the offence charged would be in the case of an adult triable summarily; provided that whenever in such provisions the expression "justice" occurs it shall be taken in the application of such pro-

² Canada, 1908, ch. 40, secs. 4, 7.

visions to proceedings under this Act to mean "judge of the Juvenile Court, or justice specially authorized by Dominion or provincial authority to deal with juvenile delinquents."³

General Procedure.—When any child is arrested, with or without warrant, such child must, instead of being taken before a justice, be taken before the Juvenile Court.⁴ If a child is taken before a justice, upon a summons or under a warrant or for any other reason, it is the duty of the justice to transfer the case to the Juvenile Court, and of the officer having the child in charge to take the child before that court, and in any such case the Juvenile Court must hear and dispose of the case in the same manner as if such child had been brought before it upon information originally laid therein. However, this rule does not apply to any justice who is a judge of the Juvenile Court, or who has power to act as such, under the provisions of any Act in force in the province.⁵

Special Procedure.—Where the act complained of is, under the provisions of *The Criminal Code* or otherwise, an indictable offence, and the accused child is apparently or actually over the age of fourteen years, the court may, in its discretion, order the child to be proceeded against by indictment in the ordinary courts in accordance with the provisions of *The Criminal Code* in that behalf; but such course shall in no case be followed unless the court is of the opinion that the good of the child and the interest of the community demand it.⁶ The court may, in its discretion, at any time before

³ Canada, 1908, ch. 40, sec. 5.

⁴ Canada, 1908, ch. 40, sec. 6.

⁵ Canada, 1908, ch. 40, sec. 6.

⁶ Canada, 1908, ch. 40, sec. 7.

any proceeding has been initiated against the child in the ordinary criminal courts, rescind an order so made.⁷

Notices to Parents.—Due notice of the hearing of any charge of delinquency must be served on the parent or parents or the guardian of the child, or if there be neither parent nor guardian, or if the residence of the parent or parents or guardian be unknown, then on some near relative living in the city, town or county, if any there be, whose whereabouts is known, and any person so served has the right to be present at the hearing.⁸ The judge may give directions as to the persons to be served, and such directions are conclusive as to the sufficiency of any notice given in accordance therewith.⁹

Duties of Clerk.—It is the duty of the clerk of the Juvenile Court to notify the probation officer or the chief probation officer, in advance, when any child is to be brought before the court for trial.¹

Private Trials.—The trials of children must take place without publicity and separately and apart from the trials of other accused persons, and at suitable times to be designated and appointed for that purpose.² Such trials may be held in the private office of the judge or in some other private room in the court house or municipal building, or in the detention home, or, if no such room or place is available, then in the ordinary court room; provided that when held in the ordinary court room, an interval of half an hour must be allowed

⁷ Canada, 1908, ch. 40, sec. 7.

⁸ Canada, 1908, ch. 40, sec. 8.

⁹ Canada, 1908, ch. 40, sec. 8.

¹ Canada, 1908, ch. 40, sec. 9.

² Canada, 1908, ch. 40, sec. 10.

to elapse between the close of the trial or examination of any adult and the beginning of the trial of a child.³ No report of the trial or other disposition of a charge against a child, in which the name of the child or of its parent or guardian is disclosed, must, without the special leave of the judge, be published in any newspaper or other publication.⁴

Detention Pending Trial.—No child pending a hearing must be held in confinement in any county or other jail or other place in which adults are or may be imprisoned, but must be detained at a detention home or shelter used exclusively for children or under other charge approved of by the judge or, in his absence, by the sheriff, or, in the absence of both the judge and the sheriff, by the mayor or other chief magistrate of the city, town, county or place.⁵ Any officer or person violating the provisions of the next preceding subsection shall be liable on summary conviction before a juvenile court or a justice to a fine not exceeding one hundred dollars, or to imprisonment not exceeding thirty days, or to both fine and imprisonment. However, this rule does not apply to a child over fourteen charged with an indictable offence, nor to a child apparently over the age of fourteen years who, in the opinion of the judge or, in his absence, of the sheriff, or, in the absence of both the judge and the sheriff, of the mayor or other chief magistrate of the city, town, county or place, cannot safely be confined in any place other than a jail or lock-up.⁶

³ Canada, 1908, ch. 40, sec. 10.

⁴ Canada, 1908, ch. 40, sec. 10.

⁵ Canada, 1908, ch. 40, sec. 11.

⁶ Canada, 1908, ch. 40, sec. 6.

Where No Detention Home.—Where a warrant has issued for the arrest of a child, or where a child has been arrested without warrant, in a county or district in which there is no detention home used exclusively for children, no incarceration of the child is to be made or had unless in the opinion of the judge of the court, or, in his absence, of the sheriff, or, in the absence of both the judge and the sheriff, of the mayor or other chief magistrate of the city, town, county or place, such course is necessary in order to insure the attendance of such child in court.⁷ In order to avoid, if possible, such incarceration, the verbal or written promise of the person served with notice of the proceedings as aforesaid, or of any other proper person, to be responsible for the presence of such child when required, may be accepted; and in case such child fails to appear at such time or times as the court requires, the person or persons assuming responsibility as aforesaid is deemed guilty of contempt of court unless in the opinion of the court there is reasonable cause for such failure to appear.⁸

Bail.—Pending the hearing of a charge of delinquency the court may accept bail for the appearance of the child charged at the trial as in the case of other accused persons.⁹

Proceedings May Be Informal.—On the trial of a child the proceedings may, in the discretion of the judge, be as informal as the circumstances will permit, consistently with a due regard for a proper administration of justice.¹⁰

⁷ Canada, 1908, ch. 40, sec. 12.

⁸ Canada, 1908, ch. 40, sec. 12.

⁹ Canada, 1908, ch. 40, sec. 13.

¹⁰ Canada, 1908, ch. 40, sec. 14.

Child's Oath May Be Dispensed With.—When in a proceeding before a juvenile court a child of tender years who is called as a witness does not, in the opinion of the judge, understand the nature of an oath, the evidence of such child may be received, though not given under oath, if in the opinion of the judge such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.¹ However, no person can be convicted upon the evidence of a child of tender years, not under oath, unless such evidence is corroborated in some material respect.²

Release on Probation.—In the case of a child proved to be a juvenile delinquent the court may adjourn the hearing from time to time for any definite or indefinite period; and may—

- (a) impose a fine not exceeding ten dollars, or may commit the child to the care or custody of a probation officer or of any other suitable person; or
- (b) allow the child to remain in its home, subject to the visitation of a probation officer, such child to report to the court or to the probation officer as often as may be required; or
- (c) cause the child to be placed in a suitable family home as a foster-home, subject to the friendly supervision of a probation officer and the further order of the court; or
- (d) commit the child to the charge of any children's aid society, duly organized under an Act of the Legislature of the province and approved by the

¹ Canada, 1908, ch. 40, sec. 15.

² Canada, 1908, ch. 40, sec. 15.

Lieutenant-Governor-in-Council, or, in any municipality in which there is no children's aid society, to the charge of the superintendent of neglected and dependent children for the province, if one there be, duly appointed under the authority of any such Act; or

- (e) commit the child, if a boy, to an industrial school for boys, or, if a girl, to an industrial school or refuge for girls, duly approved by the Lieutenant-Governor-in-Council.³

It is within the power of the court to make an order upon the parent or parents of the child, or upon the municipality to which it belongs, to contribute to its support such sum as the court may determine.⁴

Wards of Court.—Every such child, whether allowed to remain at home or placed in a foster-home, or if it be in any way committed, continues to be a ward of the court until it has been discharged as such ward by order of the court or has reached the age of twenty-one years; and the court may at any time during the period of wardship cause such child to be returned to the court for further or other proceedings, including discharge upon parole or release from detention: Provided that in a province in which there is a superintendent of neglected and dependent children appointed under the authority of any provincial statute, no child shall be released by the judge from an industrial school without a report from such superintendent recommending such release.⁵ When a child is returned to the court for further or other proceedings as in the last preced-

³ Canada, 1908, ch. 40, sec. 16.

⁴ Canada, 1908, ch. 40, sec. 16 (2).

⁵ Canada, 1908, ch. 40, sec. 16 (3).

ing subsection provided, the court may deal with the case on the report of the probation officer in whose care such child has been placed, or of the secretary of a children's aid society, or of the superintendent of neglected and dependent children, or of the superintendent of the industrial school to which the child has been committed, without the necessity of hearing any further or other evidence.⁶ The action taken shall, in every case, be that which the court is of opinion the child's own good and the best interests of the community require.⁷

Proceedings Under Provincial Law.—Whenever an order has been made committing a child to a children's aid society, or to a superintendent of neglected and dependent children, or to an industrial school, if so ordered by the secretary of the province, the child may thereafter be dealt with under the laws of the province in the same manner in all respects as if an order had been lawfully made in respect of a proceeding instituted under authority of a statute of the province; and from the date of the issuing of such order the child ceases to be a ward of the court. The order of the provincial secretary may be made in advance and to apply to all cases of commitment mentioned in this section.⁸

Fines, Damages and Costs.—Where a child is proved to have been guilty of an offence for the commission of which a fine, damages or costs might in the case of an adult be imposed, and the court is of the opinion that the case would be best met by the imposition of a fine,

⁶ Canada, 1908, ch. 40, sec. 16 (4).

⁷ Canada, 1908, ch. 40, sec. 16 (5).

⁸ Canada, 1908, ch. 40, sec. 17.

damages or costs, whether with or without any other action, the court can order that the fine, damages or costs awarded be paid by the parent or guardian of the child, instead of by the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or otherwise.⁹ Where a child is charged with any offence the court may order its parent or guardian to give security for its good behaviour.¹⁰ No order is to be made without giving the parent or guardian an opportunity of being heard; but a parent or guardian who has been duly served with notice of the hearing is deemed to have had such opportunity, notwithstanding the fact that he has failed to attend the hearing.¹ Any sum imposed and ordered to be paid by a parent or guardian under this or the previous sections may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence in question.² A parent or guardian shall have the same right of appeal from an order made under the provisions of this section as if the order had been made on the conviction of the parent or guardian.³

Religion of Child to Be Respected. — No Protestant child dealt with under this law is to be committed to the care of any Roman Catholic children's aid society or be placed in any Roman Catholic family as its foster-home; nor is any Roman Catholic child dealt with

⁹ Canada, 1908, ch. 40, sec. 18.

¹⁰ Canada, 1908, ch. 40, sec. 18 (2).

¹ Canada, 1908, ch. 40, sec. 18 (3).

² Canada, 1908, ch. 40, sec. 18 (4).

³ Canada, 1908, ch. 40, sec. 18 (5).

under these provisions to be committed to the care of any Protestant children's aid society, or be placed in any Protestant family as its foster-home. However, this rule does not apply to the placing of children in a temporary home or shelter for children, established under the authority of a statute of the province, or, in a municipality where there is but one children's aid society, to such children's aid society.⁴ If a Protestant child is committed to the care of a Roman Catholic children's aid society or placed in a Roman Catholic family as its foster-home or if a Roman Catholic child is committed to the care of a Protestant children's aid society or placed in a Protestant family as its foster-home, the court can, on the application of any person in that behalf, make an order providing for the proper commitment or placing of the child.⁵ No child of a religious faith other than the Protestant or Roman Catholic is to be committed to the care of either a Protestant or Roman Catholic children's aid society, or be placed in any Protestant or Roman Catholic family as its foster-home unless there is within the municipality no children's aid society or no suitable family of the same religious faith as that possessed by the child or by its family, and if there is no children's aid society or suitable family of such faith to which the care of such child can properly be given, the disposition of such child shall be in the discretion of the court.⁶

Children Not Allowed to be in Court.—No child, other than an infant in arms, is permitted to be present in court during the trial of any person charged with an

⁴ Canada, 1908, ch. 40, sec. 19 (1).

⁵ Canada, 1908, ch. 40, sec. 19 (2).

⁶ Canada, 1908, ch. 40, sec. 19 (3).

offence or during any proceedings preliminary thereto, and if so present it is to be ordered to be removed unless it is the person charged with the alleged offence, or unless its presence is required, as a witness or otherwise, for the purposes of justice.⁷ However, this rule does not apply to messengers, clerks and other persons required to attend at any court for purposes connected with their employment.⁸

Children Under Twelve.—It shall not be lawful to commit a juvenile delinquent apparently under the age of twelve years to any industrial school, unless and until an attempt has been made to reform such child in its own home or in a foster-home or in the charge of a children's aid society, or of a superintendent of neglected and dependent children, and unless the court finds that the best interests of the child and the welfare of the community require such commitment.

Children to Be Separated from Adults.—No juvenile delinquent shall, under any circumstances, upon or after conviction, be sentenced to or incarcerated in any penitentiary, or county or other jail, or police station, or any other place in which adults are or may be imprisoned. This section shall not apply to a child who has been proceeded against under the provisions of section 7 of this Act.

Juvenile Court Committees.—There shall be in connection with the Juvenile Court a committee of citizens, serving without remuneration, to be known as "the Juvenile Court Committee." Where there is a children's aid society in a city or town in which this law is

⁷ Canada, 1908, ch. 40, sec. 20.

⁸ Canada, 1908, ch. 40, sec. 20.

in force the committee of such society or a sub-committee thereof is deemed to be the juvenile court committee; and where there is both a Protestant and a Roman Catholic children's aid society then the committee of the Protestant children's aid society or a sub-committee thereof is the juvenile court committee as regards Protestant children, and the committee of the Roman Catholic children's aid society or a sub-committee thereof is the juvenile court committee as regards Roman Catholic children. Where there is no children's aid society in a city or town in which this Act is in force the court appoints three or more persons to be the juvenile court committee as regards Protestant children, and three or more other persons to be the juvenile court committee as regards Roman Catholic children. The persons so appointed may in their discretion sit as one joint committee.* In the case of a child of a religious faith other than the Protestant or Roman Catholic, the court appoints three or more suitable persons to be the juvenile court committee as regards such child, such persons being of the same religious faith as the child if there are such suitable persons resident within the municipality willing to act, and if in the opinion of the court they are desirable persons to be such committee.⁹

Duties of Committee.—It shall be the duty of the juvenile court committee to meet as often as may be necessary and consult with the probation officers with regard to the cases of juvenile delinquents coming before the court, to offer, through the probation officers and otherwise, advice to the court as to the best mode

⁹ Canada, 1908, ch. 40, sec. 23.

of dealing with such cases, and, generally, to facilitate by every means in its power the reformation of juvenile delinquents.¹⁰

Probation Officers.—Wherever no probation officer has been appointed under provincial authority and remuneration for such has been provided by municipal grant, public subscription or otherwise, the court, with the concurrence of the juvenile court committee, appoints one or more suitable persons as probation officers.¹

Powers of Probation Officer.—Every probation officer duly appointed under the provisions of this law or of any provincial statute has in the discharge of his or her duties as such probation officer all the powers of a constable, and is protected from civil actions for anything done in bona fide exercise of the powers so conferred.²

Duties of Probation Officer.—It is the duty of a probation officer to make such investigation as may be required by the court; to be present in court in order to represent the interests of the child when the case is heard; to furnish to the court such information and assistance as may be required; and to take such charge of any child, before or after trial, as may be directed by the court.³

Probation Officers to Confer With Committee.—Every probation officer must, as far as practicable, discuss each case and the recommendation proposed to be made with the juvenile court committee before report-

¹⁰ Canada, 1908, ch. 40, sec. 24.

¹ Canada, 1908, ch. 40, sec. 25.

² Canada, 1908, ch. 40, sec. 26.

³ Canada, 1908, ch. 40, sec. 27.

ing to the court, and convey to the court the recommendation of the committee.⁴

Contributing to Delinquency.—Any person who knowingly or wilfully encourages, aids, causes, abets or connives at the commission by a child of a delinquency, or who knowingly or wilfully does any act producing, promoting or contributing to a child's being or becoming a juvenile delinquent, whether or not such person is the parent or guardian of the child, or who, being the parent or guardian of the child and being able to do so, wilfully neglects to do that which would directly tend to prevent a child's being or becoming a juvenile delinquent, or to remove the conditions which render a child a juvenile delinquent, is liable on summary conviction before a juvenile court or a justice, to ~~a fine~~ not exceeding five hundred dollars or to imprisonment for a period not exceeding one year, or to both fine and imprisonment.⁵ The court or justice may impose conditions upon any person found guilty under this section, and suspend sentence subject to such conditions; and on proof at any time that such conditions have been violated may pass sentence on such person.⁶

No Preliminary Hearing.—Prosecutions against adults for offences against any provisions of *The Criminal Code* in respect of a child may be brought in the juvenile court without the necessity of a preliminary hearing before a justice, and may be summarily disposed of where the offence is triable summarily, or otherwise dealt with ~~as~~ in the case of a preliminary hearing before a justice. The juvenile court judge has all the

⁴ Canada, 1908, ch. 40, sec. 28.

⁵ Canada, 1908, ch. 40, sec. 29.

⁶ Canada, 1908, ch. 40, sec. 29.

powers and duties, with respect to offenders, under or apparently under the age of sixteen years, vested in, or imposed on a judge, stipendiary magistrate, justice or justices, by or under *The Prison and Reformatories Act*, chapter 148 of the Revised Statutes, 1906, or any amendment thereto: Provided that the discretion of the juvenile court judge as to the term for which a juvenile offender may be committed is not hereby affected.⁷

Act Not to Affect Provincial Statutes. — When a juvenile delinquent who has not been guilty of an act which is, under the provisions of *The Criminal Code* an indictable offence, comes within the provisions of a provincial statute, it may be dealt with either under the provincial Act or under this law, as may be deemed to be in the best interests of such child.⁸

Juvenile Delinquent Law.—Whenever and so soon as this juvenile delinquent law goes into force in any province, city, town, or other portion of a province, every provision of *The Criminal Code* or of any other Act of the Parliament of Canada inconsistent with the provisions of this Act stands repealed as regards such province, city, town, or other portion of a province. This law may be put in force in any province, or in any portion of a province, by proclamation, after the passing of an Act by the legislature of such province providing for the establishment of juvenile courts, or designating any existing courts as juvenile courts, and of detention homes for children. This law may be put in force in any city, town, or other portion of a province, by pro-

⁷ Canada, 1908, ch. 40, sec. 30.

⁸ Canada, 1908, ch. 40, sec. 32.

clamation, notwithstanding that the provincial legislature has not passed an Act, if the Governor-in-Council is satisfied that proper facilities for the due carrying out of the law have been provided in such city, town, or other portion of a province, by the municipal council thereof or otherwise. The Governor-in-Council may designate a superior court or county court judge or a justice, having jurisdiction in the city, town, or other portion of a province, in which the Act is so put in force, to act as juvenile court judge for such city, town, or other portion of a province, with all the powers conferred on the juvenile court.⁹ The judge of a juvenile court may, with the approval of the Attorney-General of the province in which such court is situate, appoint a deputy judge who shall have all the powers and authority of a judge of a juvenile court in case of the absence or illness or other disability of such judge. But no deputy judge shall hear and determine any case which a juvenile court committee desires should be reserved for hearing and determination by the judge of the juvenile court.¹⁰

LEASES AND TENANCIES.

Leases.—The relationship of landlord and tenant is created when an owner of land, the landlord, allows a person, the tenant, to occupy his land and receives therefor payment as rent. Any person having title to property and able to contract may give a lease. Any person able to contract may accept a lease. A company can make or take a lease when empowered to do

⁹ Canada, 1908, ch. 40, secs. 33, 34, 35.

¹⁰ Canada, 1908, ch. 40, sec. 35 (a).

so by its charter. When co-owners or joint owners give or take a lease, all join. When purchasers of land give a lease the vendor should join. When a mortgagor gives a lease of land mortgaged, the mortgagee should join. Executors and administrators may grant leases. Infants may grant leases of lands owned by them, and take leases, but may disaffirm or confirm the lease when they come of age. Married women may also lease land owned by them.

Yearly Tenancies.—Where there is no document giving a lease for a specified time and the rent is payable yearly, half yearly, or quarterly, a yearly tenancy is created, but not if the parties agree otherwise.

Periodic Tenancies.—These are tenancies for no stated length of time, but are granted from year to year, month to month and week to week, etc., as the case may be. They are not usually granted by writing, but come into effect by the landlord admitting a tenant into possession of his property and agreeing to allow him the use of the premises from year to year, month to month, etc. The fact of his allowing a tenant to come into possession of the premises and accepting rent payable by the year, quarter, month or week creates in consequence a yearly, quarterly, monthly or weekly tenancy, unless the parties otherwise agree. When a tenant remains on the premises after some fixed term has expired and the landlord accepts rent by the year, quarter, month, etc., a yearly, quarterly, monthly, etc., tenancy is created.

Tenancies for Fixed Periods.—These are created by leases in writing, or by verbal contracts if for three years or less. The lease terminates only when the

terms of years or months mentioned therein expire, or upon a breach of covenants. Leases may be granted for terms of months, a year, ten years, ninety-nine years, or for any fixed length of time so long as the time is specified. Leases cannot be given for an unlimited period, for example, a lease for the life of the landlord, as it is unknown at the time of letting.

Covenants.—These are promises entered into both by the landlord and by the tenant with one another in respect of acts to be performed by them in connection with the land leased. A lease may generally be terminated through breaking these covenants. As soon as a lease has been executed the tenant is entitled to possession and occupation of the premises leased and can compel the landlord to give him such possession. So long as the tenant performs his own covenants he is entitled to possession of the leased premises until the time for which the lease is to run has expired. A promise is implied on the part of the landlord that so long as the tenant has rightful possession of the leased premises he shall not be disturbed by the landlord or any person in any way claiming a right to the premises, through the landlord, so as to affect or obstruct the tenant's rightful use of the premises. The landlord may also covenant with the lessee to pay taxes and rates, to maintain the premises, to renew the lease if the tenant so desires and also to give an option to the tenant to purchase the property, and may also covenant respecting any other matter the particular circumstances and nature of the case may require. In no case will the landlord be bound by these covenants unless they are mentioned in the lease.

Underleases.—Any lessee or tenant having a lease for a certain period of time or being a tenant from year to year, may underlet to another, called the under lessee, but the under tenancy so created must be for a time, if only a day, shorter than the period for which the tenant holds. If it is for the whole time it will be considered an assignment of the lease. The under tenant is liable only to the tenant, not to the original landlord. The under lessee should be bound in the lease to the tenant by all the covenants in the original lease. Upon an assignment of a lease the under tenant is bound to the original landlord.

Assignment of Lease.—The lease may be transferred by the lessee. The person to whom the lease is transferred, called the assignee or transferee, becomes generally bound by all the covenants such as to pay rent, repair, etc., the original tenant is bound by. The original tenant is also bound by such covenants. The assignee of the lessee is generally by the terms of the transfer bound to indemnify the original tenant in case the failure by him (the assignee) to perform any of the covenants in the original lease obliges the original tenant to perform them. When the assignee transfers the lease to another he ceases to be liable on any of the covenants. The original tenant and the second transferee are then the only persons liable.

Tenants' Covenants.—The tenant is bound to pay the rent stated in the lease at the time stated, and pay all rates and taxes payable in respect of the leased premises during the continuance of the lease. The tenant also is bound to keep the premises in a proper state of repair except where damage occurs to a building by

accident from storms, lightning and tempest. The tenant is also bound to give up premises when the time is up.

Forfeiture for Non-Performance of Covenant.—The lease generally also provides that the lease will immediately terminate if the tenant at any time before the lease has run its full length of time fails to perform any of the covenants he has promised the landlord to perform, such as the covenant to pay taxes, insure, repair, the covenant against assigning or sub-letting without leave, fencing, cultivating, etc., the covenant not to cut timber or make alterations, etc.

Non-Payment of Rent.—Leases generally provide that the lease shall come to an end and the landlord have a right to retake possession of the premises in case of non-payment of rent. The lessee, although he has made default of rent, will not usually lose his lease if he tenders the full amount of rent to the landlord, together with any expenses such non-payment has cost the landlord.

Tenancies for a Fixed or Determinate Time.—No lease can be given for a period which will not come to an end. Leases for an uncertain length of time, such as leases for life, terminate on the happening of the event upon which they were intended to end, e.g., the death of the lessor, and leases for any certain period of time, such as six months, one year, five years, ten years, ninety-nine years, etc., terminate by the time for which they were given running out. No notice to quit is necessary in such tenancies for such periods of time in order to terminate them when the time for which the lease is given has expired, but such lease may provide

for its termination before the time has run out by either party giving the other notice to quit. If the tenant remains with the landlord's consent after the time has run out, the tenancy becomes a yearly tenancy, unless the parties otherwise agree.

LIEN NOTES.

I. Alberta.

Act.—The law respecting lien notes is contained in *The Lien Note Ordinance*¹, which is an ordinance respecting hire receipts and conditional sales of goods. This ordinance is still in force as amended by the laws of the province passed since the ordinance was enacted.

Lien Notes.—Wherever on a sale (or bailment) of goods of the value of \$15 or over it is agreed, provided or conditioned that the right of property or right of possession in whole or in part is to remain in the seller (or bailor) notwithstanding that the actual possession of the goods passes to the buyer (or bailee) the seller (or bailor) is not permitted to set up any such right of property or right of possession as against any purchaser or mortgagee of or from the buyer (or bailee) of such goods, in good faith for valuable consideration, or, as against judgments, executions or attachments against the purchaser (or bailee) *unless* the sale (or bailment) with such agreement, proviso or condition, is *in writing*, signed by the bailee or his agent, and *registered* in the proper registry office. The writing must contain a description of the goods so that the

¹ Alberta, 1898 Ordinances, ch. 44.

same may be readily and easily known and distinguished. These provisions, however, do not apply to any bailment where it is not intended that the property in the goods shall eventually pass to the bailee on payment of purchase money in whole or in part, or the performance of some condition by the bailee. Neither do these provisions apply to sales or bailments to railway companies.

First Registration.—The lien note or a true copy must be registered in the office of the registration clerk for chattel mortgages in the registration district within which the buyer (or bailee) resides, within 30 days from the time of the actual delivery of such goods, to the buyer (or bailee). In the event of such goods being delivered in a registration district other than that in which the buyer or bailee resides at the time of such delivery, such writing or a true copy thereof must also be registered within 30 days from the time of the actual delivery of such goods in the registration district in which such goods are delivered.

Affidavit of Bona Fides.—Every lien note agreement, or true copy, must upon registration be accompanied by an affidavit of the seller (or bailor) or his agent, stating that the written agreement annexed thereto truly sets forth the agreement entered into between the parties, and that the agreement was entered into *bona fide*, and not for the purpose of protecting the goods mentioned therein against the creditors of the buyer (or bailee).

Further Registration on Removal.—If the goods are, after delivery, removed by the buyer (or bailee) into another registration district a further registration

must be made in the registration district into which such goods are removed within 60 days after such removal.

Renewal Registration.—Any agreement, proviso, or condition of a lien note agreement above mentioned, ceases to be valid against the creditors of the persons making the same and against subsequent purchasers or mortgagees in good faith for valuable consideration; after the expiration of *two years from the filing* of such writing unless within 30 days next preceding the expiration of the said two years a statement of the amount still due for principal and interest on the sale (or bailment) and of all payments made on account, is registered in the office of the registration clerk of the registration district *where the property is then situate*, with an affidavit of the vendor or bailor, or of one of several vendors or bailors, or of the assignee, or one of several assignees, or of their assigns, or of the agent of the vendor, or bailor, or of the assignee or one of several assignees or their assigns, duly authorized for that purpose, as the case may be, stating that such statements are true, and that the said sale or bailment in writing is not kept on foot for any fraudulent purpose or to defeat, delay, or prejudice the creditors of the purchaser (or bailee).² With regard to any lien note registered previous to the passing of the new law requiring renewal registration, the renewal registration must be made within six months after April 19, 1916. Another statement, duly verified, must be filed in the office of the registration clerk of the district where the property is then situate within 30 days next preceding

² Alberta, 1916, ch..3, sec. 8.

the expiration of the term of one year from the day of the filing of the renewal statement mentioned above, and in default the condition of the lien note ceases to have effect and the property or right of possession is deemed to have passed to the purchaser (or bailee). *and so on from year to year.* In other words, a lien note must be renewed annually within 30 days next preceding the expiration of the year from the filing of the previous statement. In default the conditions attached to the lien note cease to operate, and the property passes to the buyer, which otherwise would remain in the seller.³

Marking the Goods.—The seller (or bailor) of goods of the value of \$15 or over may, before sale and delivery of possession, print, stamp, paint, or otherwise permanently mark on the said goods, so as to be plainly visible, words setting out that the goods are the property of the seller or bailor until paid for, and the name, address and occupation, of the seller or bailor, and in such case, notwithstanding the removal of such goods to another registration district, the seller (or bailor) has the same rights as if the lien had been duly registered in such registration district.⁴

Correcting Omissions to Register.—A judge of the district court of the district within which a lien note is or should be registered can (subject to the rights of third persons accrued by reason of such omissions), on being satisfied that the omission to register within the time prescribed, or that any omission or misstatement in such statement or writing was accidental or due to

³ Alberta, 1916, ch. 8, sec. 8.

⁴ Alberta, Annual Statutes, 1920, ch. 4, sec. 8.

inadvertence or impossibility, order the omission or misstatement to be rectified in the register or may extend the time for such registration on such terms and conditions (if any) as to security, advertisement or otherwise, as he thinks fit to direct.⁵

Goods Which Become Fixtures.—If any goods or chattels (which are subject to the lien note law) are affixed to any realty, such goods and chattels remain subject to the lien note law and do not become part of the realty. However, the owner of the realty, or a purchaser, or mortgagee, or other incumbrancer on such realty, has the right, as against manufacturer, bailor or vendor, or any person claiming through or under them, to retain the said goods and chattels upon payment of the amount due and owing thereon.⁶

Discharging Lien Notes.—The seller (or bailor) must on payment or tender of the amount due in respect of the goods or conditions of bailment, sign and deliver to any person demanding it, a memorandum in writing stating that his claims against the goods are satisfied, and such memorandum ~~thereupon operates to divest~~ the seller (or bailor) of any further interest or right of possession (if any) in the said goods. Any such memorandum (if accompanied by an affidavit of execution of an attesting witness) can be registered in the same way that a lien note can be registered.

Retaking Possession.—In case the seller or bailor retakes possession of the goods he must retain the same in his possession for at least 20 days, and the buyer, bailee, or any one claiming by, through, or under the

⁵ Alberta, Annual Statutes, 1917, ch. 3, sec. 32.

⁶ Alberta, Annual Statutes, 1917, ch. 3, sec. 32.

buyer or bailee may redeem the same upon payment of the amount actually due thereon, and the actual necessary expenses of taking possession.

Sale After Retaking Possession.—The goods or chattels cannot be sold without five days' notice of the intended sale being first given to the buyer or bailee or his successor in interest. The notice may be personally served or may in the absence of such buyer, bailee or his successor in interest be left at his residence or last place of abode or may be sent by registered letter deposited in the post office at least seven days before the time when the five days will elapse. It must be addressed to the buyer, or bailee, or his successor in interest at his last known post office address in Canada. The five days or seven days may be part of the twenty days during which the seller or bailor retains the property after taking possession.

II. Saskatchewan.

Act.—The lien note law of Saskatchewan is contained in *The Lien Note Act*, which is a statute regarding lien notes and conditional sales of goods.

Lien Notes.—Whenever on a sale or bailment of goods of the value of \$15 or over it is agreed, provided or conditioned, that the right of property or right of possession in whole or in part shall remain in the seller (or bailor) notwithstanding that the actual possession of the goods passes to the buyer (or bailee) the seller (or bailor) is not permitted to set up any such right of property or right of possession as against any purchaser or mortgagee of or from the buyer (or bailee) of

such goods in good faith for valuable consideration, or as against judgments, executions or attachments against the purchaser or bailee, unless such sale (or bailment) with such agreement, proviso or condition is *in writing*, signed by the bailee or his agent *and registered*. This does not apply to any bailment where it is not intended that the property in the goods shall eventually pass to the bailee on payment of purchase money in whole or in part, or the performance of some condition by the bailee. Nor do these provisions apply to lien notes or conditional sales to railway companies.

Registration.—The lien note must be registered in the office of the registration clerk for the registration district within which the buyer (or bailee) resides within 30 days from the time of the actual delivery of such goods to the bailee (or buyer). In the event of such goods being delivered in a registration district other than that in which the buyer (or bailee) resides at the time of such delivery, the lien note, or a true copy, must also be registered within 30 days from the time of the actual delivery of such goods, in the registration district in which such goods are delivered.

Further Registration.—If such goods are, after delivery, removed by the buyer (or bailee) into another registration district a further registration must be made in the registration district into which such goods are removed within 60 days after such removal. No goods or chattels comprised in a lien note or conditional sale agreement can be removed into another registration district unless a notice of the intention to remove is mailed post paid and registered to the seller or vendor at his last known place of address not less

than 20 days prior to such removal.¹ Removal without notice is punishable by a fine of \$100.

Renewal Registration.—The seller (or bailor), his exectuors, administrators or assigns, or his or their agent, must within 30 days next preceding the expiration of 2 years from the date of such registration, file with the registration clerk a renewal statement, verified by affidavit, showing the amount still due to him for principal and interest (if any) and of all payments made on account, and whether, or to what extent the conditon (if any) of the bailment is still unperformed, and thereafter from year to year a statement, similarly verified, within 30 days next preceding the expiration of the year from the filing of the last renewal statement, and in default of such filing the seller (or bailor) is not permitted to set up any right of property or possession in the said goods or against the creditors of the buyer or bailee, or any purchaser or mortgagee of or from the buyer (or bailee) in good faith for valuable consideration. There are penalties for false statements in renewal statements. A seller, or bailor, is bound by statements made by him or his agent in such renewal statement, and the goods are liable to redemption, and the seller (or bailor) be divested of his property and right of possession (if any) in the goods upon payment of the amount actually due, and owing in respect thereof, or upon performance of the condition of the bailment by the buyer (or bailee) or any person claiming by, through, or under the buyer (or bailee).

Affidavit of Bona Fides.—Every lien note must, on

¹ Saskatchewan, Annual Statutes, 1915, ch. 43, sec. 25.

registration, be accompanied by an affidavit of the seller or bailor, or his agent, stating that the written agreement annexed thereto truly sets forth the agreement entered into between the parties, and that the said agreement was entered into *bona fide*, and not for the purpose of protecting the goods mentioned therein against the creditors of the buyer or bailee. Where a lien note is taken under the provisions of *The Farm Implement Act*, the registration of such note or a true copy, accompanied by an affidavit of the seller or bailor, or his agent, stating that the said lien note was given under the provisions of *The Farm Implement Act*, *bona fide*, and not for the purpose of protecting the goods mentioned therein against the creditors of the buyer (or bailee) is a sufficient compliance with the provision as to an affidavit of *bona fides*.²

Fixtures.—Where goods have been affixed to realty they remain subject to the rights of the seller or lender as fully as they were before being affixed, but the owner of the realty or any purchaser, or any mortgagee, or other incumbrancer has the same right against the seller or lender or other person claiming through or under him to retain the goods on payment of the amount owing on them.³

Assignment of Lien Note.—A valid assignment of a lien note must transfer the assignor's rights of property, in the goods therein comprised, his rights of seizure, removal and sale, and all other rights with regard to the enforcement of the security possessed by him.⁴

² Saskatchewan, Annual Statutes, 1916, ch. 37, sec. 23.

³ Saskatchewan, Annual Statutes, 1915, ch. 43, sec. 25.

⁴ Saskatchewan, Annual Statutes, 1915, ch. 43, sec. 35.

Retaking Possession and Sale.—When the seller or bailor retakes possession he must hold the goods for 20 days and must not sell without first giving 5 days' notice to the buyer, bailee, or his successor in interest, of the intended sale.

Goods Specially Marked.—There is a provision in the Saskatchewan law which has special reference to manufacturers' goods of the value of \$15 or over which, at the time of actual delivery have the manufacturer's or vendor's name painted, printed or stamped, or attached by a plate or similar device. This provision makes an exception from the Act so far as registration is concerned of the notes. However, certain conditions must exist. The seller or bailor must have an office in Saskatchewan and must give information as to amounts due on the goods, when demanded in writing.

Rectification of Errors and Omissions.—The Saskatchewan lien note law contains a provision which enables a judge of the District Court or Supreme Court to grant an order correcting errors and omissions to register, or misstatement of names. The rights of third parties which have accrued by reason of the omissions are, however, usually protected.

III. Manitoba.

Act.—The law in this province relating to lien notes is contained in *The Lien Notes Act*.¹

Manufactured Goods.—Receipt notes, hire receipts and orders for chattels given by bailees of chattels, where the condition of the bailment is such that the

¹ Manitoba, Revised Statutes, 1913, ch. 115.

possession of the chattels should pass without any ownership therein being acquired by the bailee, were and still are only valid in the case of manufactured goods or chattels which (at the time the bailment is entered into) have the manufacturer's name or some other distinguishing name painted, printed or stamped thereon or otherwise plainly attached thereto. No such bailment is valid unless it be evidenced in writing, signed by the person thus taking possession of the chattel.

Manufacturers to Furnish Information.—Every manufacturer and his agents must, forthwith, on application, furnish to any applicant full information respecting the balance due on any such manufactured goods or chattels and the terms of payment of such balance, and in case he or they refuses or refuse, neglects or neglect, to furnish the information asked for, such manufacturer or agent is liable to a fine of not less than ten dollars nor more than fifty dollars on conviction before any justice of the peace.

Affecting Lands.—No lien notes, hire receipts, orders for chattels or documents or instruments containing as a portion thereof or having annexed thereto or endorsed thereon, any order, contract or agreement for the purchase or delivery of any chattel or chattels, can be registered in any registry office or land titles office, and no caveat can be registered or filed in any land titles office which has annexed thereto or endorsed thereon, or which refers to or is founded upon, any instrument or document, or part thereof, registration of which is so prohibited. It is the duty of every registrar and district registrar to whom any such lien note,

hire receipt, order for chattels, document, instrument or caveat, the registration or filing whereof is prohibited, is presented to refuse to receive the same. If, by inadvertence, accident, mistake or the non-performance of duty on the part of the registrar or district registrar, any such lien note, hire receipt, order for chattels, document, instrument or caveat, the registration or filing whereof is prohibited, be registered or filed in any registry office or land titles office in Manitoba, such registration or filing is, nevertheless, absolutely null and void.

Every lien note, hire receipt, order for chattels, or document or instrument, the registration of which was or is prohibited, is (in so far as the same purported or purports to affect land), absolutely null and void as against any person or corporation claiming an interest or estate in lands under a registered instrument.

Fixtures.—Where any machinery, the subject of or affected by any receipt note, hire receipt or order for chattels, has been affixed to realty it remains subject to the rights of the manufacturer, bailor or vendor, or person claiming through or under them, as fully as it was before being so affixed, but the owner of such realty, or any purchaser or any mortgagee or other encumbrancer thereof, has the right as against the manufacturer, bailor or vendor, or other person claiming through or under them, to retain the machinery, upon payment of the amount owing on it. This, however, does not affect any machinery affixed to the realty and contained in any residence, tenement or apartment block.

LIFE INSURANCE.

Generally.—Life insurance is one of the most important of all business transactions. Upon it depends the life and security of many a family, and it is essential, therefore, that the policy should be sound. Laws have been passed in all provinces safeguarding the rights of an assured, as well as the beneficiaries, from unsound policies of life insurance. All that is required therefore, is a good policy and a sound company. At the same time it must be remembered that a duty rests upon the assured to give all information required, and that, truthfully, because, like all other contracts, there must be good faith between the parties. This is very important because when the policy falls due the company may refuse to pay the claim if any fraud has been practised. The information, therefore, which the assured supplies on obtaining the insurance should be absolutely accurate. It is needless to say that the contract must be in writing, and it is always well to read over the policy so that no mistakes are made or misconceptions left uncorrected. The policy is the all-important document, and naturally takes the place of any verbal representations which may have been made to induce the assured to take out insurance.

Policy.—A life insurance policy is a contract whereby an insurance company agrees to pay at the death of the person insured or, either at death or at a certain time, whichever happens first, a sum of money in consideration of the person insured paying a yearly sum of money to the company, called the premium.

Who May Insure.—Any person who may contract may enter into a contract of life insurance upon his

own life or that of another in whose life he has an insurable interest. Any person who has what is called an *insurable interest*, that is, some pecuniary, i.e., money interest, in the life of some one else, may effect an insurance on that person's life. According to this rule the following persons may effect insurance: Husbands and wives may effect insurance on the lives of one another, creditors on lives of debtors, employers on lives of employees, persons other than parents maintaining children and expecting children to pay back such insurance on lives of such children, partners on lives of fellow partners.

Amount Recoverable.—Where a person effects insurance on his own life the total amount of insurance is recoverable whenever it falls due. Whenever, however, any person effects insurance on the life of another in whom he has some insurable interest, the amount recoverable is limited to the extent of the money interest in the person insured at the time the insurance was taken out.

Agents.—Agents may not of themselves unless empowered so to do, which is rarely the case, bind the company by a contract to grant policies. Their duty is to write the application, take the premium and forward the same to head office, and only when head office accepts the risk and grants the policy is the company legally bound.

Concealment of Facts.—The contract of insurance is entered into upon the condition that the company is to be informed about everything concerning the life, health, conditions of life, etc., of the person whose life

know. All questions asked at the medical examination and in the application form must be answered to the best of the knowledge of the person whose life is insured. Any misstatement or concealment of fact made falsely, by the person to be insured, makes the policy void. Right up to the time the policy is issued the company should be informed respecting any events happening after the medical examination, such as sickness or accidents or the discovery of a disease which the applicant was not aware of when being examined.

When Policy Commences to Run.—The company becomes liable as soon as the policy is issued. The premium must previously be paid by note or otherwise. If it is so provided in the policy, the company does not commence to become liable until the premium is paid in cash.

Cancellation of Policy.—The policy will expire in the following events:

- (a) If premiums are unpaid when due unless the company gives an extension of time;
- (b) On the discovery of false statements in the answer to the questions put on application;
- (c) Where the person commits suicide, but not usually where he commits suicide while insane; or
- (d) Where the person insured is executed.

Rates and Premiums.—If the company refuses to effect insurance, the premium paid may be claimed by the person who paid it unless the note is carried for any length of time or the insurance was refused or became void by reason of false statements and the premium was paid on that condition.

Assignment of Policy.—An insurance policy may be assigned to any other person by the person insured, whether such assignee has or has not an insurable interest. Notice in writing should accordingly be given to the insurance company, but the company's consent is not necessary unless otherwise provided. The assignee of the policy may sue in his own name for the insurance moneys when these become due.

Agents Giving Rebates.—No rebates are to be allowed on premiums. That means an agent may not share his commission with the person taking on the insurance, such person paying thereby less than the full amount of the first premium. Very heavy penalties are payable by persons accepting or giving such rebates.

Days of Grace.—Thirty days of grace after the day the premium is due are usually allowed in which to pay premiums.

Five-Year Periods.—Profits are apportioned to policies at least once in every five years.

LIMITATIONS OF ACTIONS.

Generally.—All claims for which an action can be brought must be begun within a certain time after the debt or liability becomes due. After that time has elapsed no action may be brought in respect of such debt or liability unless the running is suspended. The right to the payment of the debt or liability may continue, but the courts will not enforce it, the reason being that it is in the best interests of business and society that claims should be enforced promptly. A

debt which cannot be enforced because of the lapse of such a time before the beginning of the action is said to be "outlawed" or "statute barred." The law with respect to the time within which actions must be brought is contained in statutes of the various provinces, copied almost word for word from some very old English statutes dealing with the matter, but where such laws differ in the various provinces the difference in time is mentioned.

Debt.—Actions for all debts on open accounts for goods or upon Promissory Notes, Bills (Drafts and Acceptances), or for money loaned must usually be brought within six years after the debt first became due. The same rule applies to all debts under verbal or written contracts, not under seal.

Recovery of Goods or Trespass.—Actions for recovery of goods or for some trespass to lands or roads must usually be brought within six years of time when the liability was incurred.

Contracts Under Seal.—Actions for moneys due under any contract under seal must be brought within 20 years of the time when the moneys became due and payable.

Rent or Interest.—Actions for rent or for interest on mortgages on land must be commenced within six years of the time the moneys become due.

Recovery of Land.—Actions for the recovery of land or for the recovery of principal due on mortgages or an action by a mortgagor to recover land of which the mortgagor has taken possession must be brought within 12 years in Saskatchewan and Alberta, 10 years in Manitoba, and 20 years in British Columbia from the

is insured, which it is important the company should time when the land might have been recovered or the mortgage principal sued for.

Wrongs.—Actions for assault, battery or wounding of a person or for later imprisonment must usually be brought within four years after the wrong was committed. Actions for libel or slander must usually be brought within two years after the utterance of the slander. Actions for damage for negligence generally within six years after the event causing damage happened. Actions in respect of injuries received by any person from the result of which he died must usually be brought within twelve months after death.

Railways.—Actions against railways in respect of matters mentioned in *The Railways Act* must be commenced within one year after the right to bring the action arises.

Ascertaining Date of Commencement.—The time commences to run only upon the day when the debt is due and payable and not before. For instance, the six-year limitation period commences in case of an open account, where no credit is given, when the last goods are supplied, or when credit is given, when the period of credit expires. In case of a note or draft, it commences upon the day following the last day of grace. In case of money loaned it commences on the day it is to be repaid. In the case of rent or interest on mortgages the time commences to run when the rent or interest falls due. In the case of principal moneys payable on the mortgage, the time runs from the date the principal fell due. Where land or roads are to be recovered, the

time runs from the day when the lands or roads could first be recovered. In the case of damages for injuries or other wrongs, the time runs from the time injury was caused. Time will commence to run as above described and continue to run until the time has elapsed within which the action may be brought unless the debtor does one or other of the acts hereinafter mentioned.

Effect of Part Payment on Account.—In such case the time will only commence to run from the time the last of such part payment was made. Where the debtor specifically applies the part payment to the particular debt, it makes no difference whether the part payment is made before or after the six years or other period has elapsed, it, nevertheless, revives the debt, the time commencing to run in respect of the balance from the time of such payment. Such payment will not revive the debt if the debtor in paying it denies there is any balance due. Where there are two debts payment in respect of one debt does not prevent time running in respect of the other. Where there are two co-debtors, such as two persons on a note, part payment by one does not prevent time running against others. When an account is made up of debts and credits the time commences to run from the date of the last payment. The part payment may be either in goods or money.

Acknowledgment of the Debt in Writing.—In this case, the time commences to run when the written acknowledgment is given. The written acknowledgment must be clear, certain and unconditional, and must be made by the debtor or his agent to the creditor or his agent and to no one else in order to have any effect.

LUXURY AND WAR TAXES.

Act.—The luxury and war taxes which affect the individual are those contained in *The Special War Revenue Act*, 1915.¹ The recent amendments deal with the so-called “luxury” taxes. These taxes are nothing more or less than a tax on the purchase price of certain articles, belonging to the luxury class. The tax is paid at the time of purchasing the article, and the amount is calculated on a percentage basis on the price paid by the purchaser. Besides these luxury taxes there are, of course, other taxes which are collected by the Dominion Government, notably the income tax. (See **INCOME TAX**).

Taxes on Railway and Vessel Tickets.—Every purchaser of (1) a ticket entitling the purchaser to transportation over a railway to any place in or outside of Canada, or (2) a ticket or right entitling the purchaser to transportation by vessel between ports or places in Canada, or from a port or place in Canada to a port or place in Newfoundland, the West Indies, Bermuda, British Guiana, British Honduras or the United States; (3) a ticket or right entitling the purchaser to transportation over a railway and by vessel to a port or place in Canada, Newfoundland, the West Indies, Bermuda, British Guiana, British Honduras or the United States, whether such transportation be by railway and vessel, or by vessel and railway, or by railway, vessel and railway; in addition to the regular charge for the ticket or right, pays to the person selling the ticket or right, for the Consolidated Revenue Fund, in respect

¹ Canada, Annual Statutes, 1915, ch. 71, as altered and amended by the Annual Statutes of 1918 and 1920, and Order-in-Council Dec., 1920.

of a ticket or right costing over \$1 and not more than \$5, a tax of five cents, and over five dollars, a tax (for each \$5 and in addition for any fractional part of \$5) of five cents.

Tax on Berths and Parlour Car Seats.—Every purchaser of a seat in a pullman or parlour car and of a berth in a sleeping car shall, in addition to the regular charge for the seat or berth, pay to the person selling the seat or berth, for the Consolidated Revenue Fund, ten cents for each seat and an amount equal to ten per cent. of the price of each berth, but in no case shall the tax be less than twenty-five cents for each berth.

Tax on Vessel Tickets.—Every purchaser of a ticket or right entitling the purchaser, either with or without intervening transportation, to transportation by vessel from a port or place either in or outside of Canada to a port or place outside of Canada other than in Newfoundland, the West Indies, Bermuda, British Guiana, British Honduras or the United States (in addition to the regular charge for the ticket or right) pays in respect of the transportation by vessel to the person selling the ticket or right for the Consolidated Revenue Fund: the sum of \$1 if the amount chargeable for such transportation by vessel exceeds \$10; the sum of \$3 if the amount chargeable for such transportation by vessel exceeds \$40; the sum of \$5 if the amount chargeable for such transportation by vessel exceeds \$65.

Stamps on Cheques.—No person can issue a cheque payable at or by a bank unless there is affixed thereto an adhesive stamp or unless there is impressed thereon by means of a die a stamp of the value of two cents. Every adhesive stamp affixed to a cheque must be can-

called by the bank at which the cheque is payable at or before the time of payment.

Stamps on Bills and Notes, Generally.—No person shall transfer a bill of exchange or promissory note to a bank in such manner as to constitute the bank the holder thereof, or deliver a bill of exchange or promissory note to a bank for collection, unless there is affixed thereto an adhesive stamp or unless there is impressed thereon by means of a die a stamp of the value of, if the amount of the money for which the bill or note is drawn or made

- (i) does not exceed \$100.00.....two cents,
- (ii) exceeds \$100.00, for every \$100.00 or
fraction thereoftwo cents.

Stamps on Bills Payable on Demand, etc.—If a bill of exchange, transferred or delivered to a bank or issued by a bank is payable on demand, or at sight, or on presentation, or within three days after date or sight, such bill is (for the purpose of the value of the stamp to be affixed thereto or impressed thereon) deemed to be drawn for an amount not exceeding one hundred dollars.

Stamps on Promissory Notes for Advances.—Whenever a promissory note, payable on demand, is transferred or delivered to a bank in such manner as to constitute the bank a holder, for an advance made or to be made by the bank, a stamp of the value of two cents only is required to be affixed to the note or impressed thereon, whatever the amount of the money for which the note is made. The bank must, quarterly, on the last day of March, the last day of June, the last day of

September, and the last day of December in each year, or within five days thereafter, prepare a statement showing the maximum amount of the advances made to the person transferring or delivering such notes, outstanding at the close of business on any day during the period of three months, or portion of such period, then ending, in respect of notes payable on demand, and must affix, at the time the statement is prepared, a stamp or stamps of the value of two cents for every one hundred dollars or fraction thereof by which the maximum amount of the advances as aforesaid exceeds one hundred dollars. The bank must forthwith render such statement to the person to whom the advances were made and the amount of the stamps so affixed are forthwith payable by such person to the bank.

Tax on Documents or Writings Containing Promise to Pay, or Pledge of Securities, to Secure Payment of Advances.—Whenever a document or writing is given or delivered to a bank in respect of an advance made or to be made by the bank to the person giving or delivering the document or writing and containing a promise to pay any sum of money advanced pursuant thereto, or containing a pledge of securities to secure the payment of any advance, and no promissory note or bill of exchange in respect of such advance is transferred or delivered to the bank, the following steps must be taken: The bank, quarterly, on the last day of March, the last day of June, the last day of September and the last day of December in each year, or within five days thereafter, prepares a statement showing the maximum amount of the advances made to the person giving or delivering such document or writing

outstanding at the close of business on any day during the period of three months, or portion of such period, then ending, in respect of such document or documents, and affixes thereto, at the time the statement is prepared, a stamp or stamps of the value of two cents for every one hundred dollars of such maximum advances, or fraction thereof. The bank must forthwith render such statement to the person to whom the advances were made and the amount of the stamps so affixed is forthwith payable by such person to the bank.

Tax Where Accounts Closed or Payable During Quarterly Period.—If the person to whom an advance is made closes the account in respect of such advances at any time during a quarterly period, or if such account becomes payable at any time during a quarterly period, such statement is rendered forthwith, and the maximum amount of the advances made to the person outstanding at the close of business on any day in either case during the portion of such period, determines the value as aforesaid of the stamps to be affixed to the statement.

Tax on Overdrafts.—Whenever an advance is made by a bank to a person by way of overdraft the bank must on the last day of each month or within five days thereafter, prepare a statement showing the maximum amount of the overdraft outstanding at the close of business on any day during the month, and must affix to the statement a stamp or stamps of the value of two cents for every one hundred dollars or fraction thereof of such maximum amount, and the bank forthwith renders such statement to the person to whom the advances were made and the amount of the stamps so affixed are

forthwith payable by such person to the bank. An overdraft to be taken into account for the purposes of the statement and the value of the stamps to be affixed, is not deemed to be outstanding until the fourth day on which the account is overdrawn. If the person to whom an advance is made closes the account at any time during a month, or if the account becomes payable at any time during a month, the statement mentioned must be rendered forthwith, the maximum amount of the advances made to the person outstanding at the close of business on any day during the portion of such month shall determine the value of the stamps to be affixed as aforesaid to the statement.

Stamps on Receipts for Money.—No person can sign a receipt for money paid to him by a bank chargeable against a deposit of money in the bank to his credit until he has affixed to the receipt an adhesive stamp or unless there is impressed thereon by means of a die a stamp of the value of two cents. Every adhesive stamp affixed to such receipt must be cancelled by the bank at the time the money is paid.

Tax on Bank Cheques, etc.—No cheque or other bill of exchange can be issued or paid by a bank unless there is affixed thereto an adhesive stamp or impressed thereon by means of a die a stamp of the value of two cents.

Tax on Notes, Cheques and Bills Made Out of Canada.—Every bank having in possession in Canada any promissory note, cheque or other bill of exchange made or drawn out of Canada on which a stamp has not been affixed or impressed, must before payment or presentment for acceptance or payment, if the same is payable

in Canada, affix thereto an adhesive stamp of the requisite value according to the requirements of this section, and the value of the stamp so affixed shall be payable to the bank by the person entitled to the proceeds of the note, cheque or bill. The bank shall, before payment or presentment for acceptance or payment, if the stamp is affixed by the bank, cancel the stamp.

Tax on Sale or Transfers of Stock.—No person can sell or transfer the stock or shares of any association, company or corporation, by agreement for sale, entry on the books of the association, company or corporation, by delivery, of share certificates or share warrants endorsed in blank, or in any other manner whatsoever, or accept the transfer or delivery of any stock or share unless in respect of such sale or transfer there is affixed to or impressed upon the document evidencing the ownership of such stock or shares, or a document showing the transfer or agreement to transfer thereof, an adhesive stamp, or a stamp impressed thereon by means of a die of the value of two cents for every one hundred dollars or fraction thereof of the par value of the stock or shares sold or transferred. In case of sale where the evidence of transfer is shown only by the books of the company the stamp must be placed or impressed upon such books, and where the change of ownership is by transfer of the certificate the stamp must be placed or impressed upon the certificate, and in case of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there must be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed or impressed. Every bill or memorandum of

sale or agreement to sell before mentioned must show the date, the name of the seller, the amount of the sale, and the matter or thing to which it refers. The first delivery by a corporation or company of such shares, or debenture stock, in order to effect an issue, is not subject to the tax.

Express Money Orders.—Every express company carrying on business in Canada must before the issue of a money order or traveller's cheque affix thereto an adhesive stamp of the value of two cents. The company may charge the two cents to and collect the same from the purchaser of the order or cheque or from the payee. The company must before delivery of the order or cheque cancel the stamp by writing on or across the stamp initials or other identification of the company, together with the date of the issue of the order or cheque.

Post Office Orders.—No money order can be issued under the provisions of *The Post Office Act* until there is affixed thereto or to the relative advice a postage stamp of the value of two cents, to be paid for by the purchaser of the order. The postmaster or other officer of the Post Office Department issuing the order must cancel the stamp by impressing thereon when affixed the date stamp of the post office at which the order is issued.

Postal Notes.—No postal note can be issued under the provisions of *The Post Office Act* until there is affixed thereto a postage stamp of the value of one cent, to be paid for by the purchaser of the note. Before delivery of the note the stamp must be cancelled

by the postmaster or other officer of the Post Office Department issuing the same by impressing thereon the date stamp of the post office at which the note is issued.

Letters and Post Cards.—On every letter and post card for transmission by post for any distance within Canada and on every letter and post card not intended for transmission through the mails, but for posting and delivery at the same post office, there is levied and collected a tax of one cent in addition to postage payable in the form of a postage stamp of the denomination of one cent, to be affixed thereto at or before the time of posting the letter or post card. This tax is not levied or collected on any letter or post card entitled to the privilege of free transmission under the provisions of *The Post Office Act*, nor on any letter or post card if the levying and collecting of such tax would be contrary to the provisions of the Universal Postal Convention concluded between Canada and certain other countries. The stamp so affixed must be cancelled by the postmaster or other officer of the Post Office Department whose duty it is to cancel the postage stamps affixed to such letters and post cards in prepayment of postage. The Postmaster-General makes arrangements for the distribution of postage stamps for the above purposes.

Matches.—Every manufacturer and every importer of matches must affix to every package of matches manufactured by him or imported into Canada after the 13th day of April, 1918, an adhesive or other stamp of the value of one cent for each one hundred matches or fraction of one hundred matches contained in such

package, and no manufacturer or importer shall sell or import matches unless they are in packages.

Tax on Sales.*—In addition to the present duty of excise and customs a tax of one per cent. is imposed, levied and collected on sales and deliveries by manufacturers and wholesalers, or jobbers, and on the duty paid value of importations. In respect of sales by manufacturers to retailers or consumers, or on importations by retailers or consumers, the tax payable is two per cent. The purchaser is furnished with a written invoice of any sale, and the invoice states separately the amount of such tax to at least the extent of one per cent., but such tax must not be included in the manufacturer's or wholesaler's costs on which profit is calculated. The tax is payable by the purchaser to the wholesaler or manufacturer at the time of such sale, and by the wholesaler or manufacturer to the Government, in accordance with such regulations as may be prescribed. The wholesaler or manufacturer is liable to a penalty not exceeding \$500, if such payments are not made, and in addition is liable to a penalty equal to double the amount of the excise duties unpaid.¹ A drawback may be granted of the tax paid on goods exported or on materials used, wrought into or attached to articles exported. This tax on sales *does not apply* to sales or importations of—Animals living; poultry; fresh, salted, pickled, smoked or canned meats; canned poultry; soups of all kinds; milk, cream, butter, cheese, buttermilk, condensed milk, condensed coffee with milk, milk foods, milk powder and similar products of milk; oleomargarine, margarine,

¹ Canada, Annual Statutes, 1920, ch. 71.

* Since changed by Order-in-Council, Dec., 1920.

butterine or any other substitutes for butter; lard, lard compound and similar substances; cottolene; eggs; chicory, raw or green, kiln-dried, roasted or ground; coffee, green, roasted or ground; tea; hops; rice, cleaned or uncleaned; rice flour; sago flour; tapioca flour; rice meal; corn starch; potato starch; potato flour; vegetables, fruits, grains and seeds in their natural state; buckwheat, meal or flour; pot, pearl, rolled, roasted or ground barley; corn meal; corn flour; oatmeal or rolled oats; rye flour; wheat flour, or wheat meal; sago and tapioca; macaroni and vermicelli; split peas and pea meal; cattle foods; hay and straw; nursery stock; vegetables, canned, dried or desiccated; fruits, canned, dried, desiccated or evaporated; honey; fish and products thereof; sugar, molasses; maple, corn and sugar cane syrups and all imitations thereof; ice; newspapers and quarterly, monthly and semi-monthly magazines and weekly literary papers unbound; gold and silver ingots, blocks, bars, drops, sheets or plates unmanufactured; gold and silver sweepings; British and Canadian coin and foreign gold coin; materials for use only in the construction of ships; anthracite and bituminous coal and coal dust, lignite, briquettes made from anthracite or bituminous coal or lignite, coke, charcoal, peat, wood for fuel purposes; electricity; calcium carbide; gas manufactured from coal, calcium carbide or oil for illuminating or heating purposes; fibre for use only in manufacture of binder twine; ships licensed to engage in the Canadian coasting trade; artificial limbs and parts thereof; donations of clothing and books for charitable purposes; settlers' effects; articles enumerated in Schedule C of the West India

Agreement or to articles purchased for use of the Dominion Government or any of the Departments thereof or by or for the Senate or House of Commons; and the Governor-in-Council has power to add to the foregoing list of articles exempted from the tax on sales, such other articles as he may deem it expedient or necessary to exempt from the said tax.²

Luxury Taxes.*—Certain luxury taxes were imposed by recent amendments to the excise law.³ They are levied and collected on the total purchase price of certain articles, and the tax varies. It is based on a percentage of the value of the goods purchased, and is collected at the time the goods are sold.

MASTER AND SERVANT.

Generally.—A servant is a term used in law to denote any person who is employed by another to perform services for him. The employer is called, in law, the master. The master to be such must have the right to order how the work is to be done, the amount of time to be devoted to it, and exercise a general oversight over it. Unless the person employing another has such rights over him, the person does not become his servant. An agent is not a servant for the reason that he is not subject to oversight by his principal as to the manner of doing his work or as to the time which he must devote to it. A contractor is not a servant because the person who employs him or rather contracts with him to do work has no control over the contractor as to how the work is to be done and does not oversee it.

² Canada, Annual Statutes, 1920, ch. 71.

³ Canada, Annual Statutes, 1920, ch. 71, sec. 2.

* Changed by Order-in-Council, Dec., 1920.

Domestic, Menial, and Other Servants.—The term "servant" usually suggests to the mind, domestic servants. In the eyes of the law they are only one class of servants. It must be borne in mind that any person employed by another, whether such person is employed as a domestic servant, day laborer, mechanic, or other skilled worker, policeman, clerk, school teacher, manager of a company, city commissioner, etc., all are, in the eyes of the law, servants of the person employing them, if they are employed under the conditions mentioned above.

Who May be Masters.—Any person capable of contracting may employ a servant. Where a servant is employed by a married woman, the husband is liable to the servant whether he agrees to the employment or not, provided the employment of the servant is necessary to his wife. He is liable also for the acts of and to such servant generally in the same way as other masters are liable to servants.

Who May be Servants.—Any person who can legally contract can become a servant. Infants are bound by their contracts of service, if the service is beneficial to them, but not if not beneficial. Married women may contract to serve, so may lunatics and idiots unless the employer employing the lunatic or idiot knew they were insane.

How Contract of Service Entered Into.—The contract of service may be entered into by word of mouth, but if for a period longer than a year, must, to be legal and binding, be in writing. It is, usually, more satisfactory to have the contract of service in writing. Contracts of apprenticeship must be in writing and be

signed by the infant apprentice, otherwise the apprentice may not be bound.

Food and Clothing.—The master is not, except in the case of domestic servants, bound to supply board and lodging to the servant unless he agrees so to do in the contract of service.

Medical Attendance.—Unless so provided in the contract of service a master is not required to supply the servant with medical attendance when sick. When the master calls in medical attendance for the servant he then becomes personally liable.

Character Testimonial.—No servant however faithfully and efficiently he has served his master has any legal right to a testimonial from the master. The master is only liable where he gives a false character to the servant or libels the servant in any testimonial given by him.

Indemnifying Servant.—A master is liable to indemnify his servant in respect of any liabilities and expenses incurred by the servant while he is engaged in his duties as servant, but not when he is engaged in matters not connected with his duties, or where there was no need to incur the expenses, or where the servant incurred it solely through his carelessness, or the transaction itself was unlawful.

Wages.—Wages or other remuneration for services by a servant are only recoverable where there is an express or implied contract by the master to pay such wages. No person is liable to another for services performed for him by that other unless he has agreed to pay for such service or unless he has by words or conduct allowed such person to perform the services, such

person believing he will be paid for such services. Additional wages over and above the usual rate can only be recovered where there is a distinct contract by the master to pay them. Where wages are payable at certain times they can be recovered only when due.

Wages When Servant is Ill.—Wages are payable when the servant is unable to work through a temporary illness and returns as soon as he is able to work, unless the contract of service provides otherwise.

Servant Leaving Without Notice or Dismissal.—A servant is usually entitled to wages or salary earned up to leaving, but where he leaves during the term of service without due notice as provided in the contract he may not be able to recover his wages.

Where Servant Breaks His Contract.—When a servant leaves his employer either without notice where the contract provides for notice, or where he agrees to serve for a certain length of time and leaves before that time expires without just cause or excuse, the master may generally retain all wages except those already earned by the servant, due and payable by the master, and may also sue the servant for damage for breach of his contract.

Where Master Wrongfully Breaks the Contract.—Whenever the master dismisses the servant without notice where notice is required to be given, or where the service is for a certain length of time and the master dismisses the servant before or after the period of service commences, and the dismissal is wrongful, not being for a proper cause, the servant may recover from the master all wages earned, and possibly his expenses and loss suffered by the dismissal. He must, however,

make every effort to secure other employment and will only be entitled to such amount of wages as he has unavoidably lost by reason of the dismissal.

Notice.—The contract of service is terminated by either the master or servant giving the notice stated in the contract. If no notice is provided for in the contract, contracts of a monthly or yearly hiring are terminated by a month's notice, or if by the week or day by a week's or day's notice as the case may be, or where the contract is for an indefinite time a reasonable notice is required, generally a month's notice.

Dismissal Without Notice.—A master is justified in dismissing a servant without notice in the following cases: (1) Where the servant wilfully disobeys the master's reasonable orders, but not orders endangering his life or person, or orders not pertaining to the servant's work; (2) where the servant misconducts his master's affairs or is guilty of fraud or dishonesty in so doing, or is guilty of immoral or insubordinate conduct outside of or in connection with his master's affairs; (3) where the servant is guilty of conduct meriting dismissal without notice, such as habitual neglect of duties, taking secret profits in connection with his master's business. If, after the master becomes sure of the servant's misconduct, he continues to employ him, he cannot afterwards dismiss him for that particular offence.

MILK.

Adulteration.—Milk is of various kinds and qualities. There is milk, skim milk, butter milk, condensed milk, milk powder, and homogenized milk. The law dealing

therewith is not always the same in each case. No person is allowed to sell, supply or send to any cheese, or butter, or condensed milk, or milk powder or casein manufactory, or to a milk or cream shipping station, or to a milk bottling establishment or other premises where milk or cream is collected for sale or shipment, or to the owner or manager thereof, or to any maker of butter, cheese, condensed milk or milk powder or casein to be manufactured:—

- (a) Milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as skim milk, or any milk to which has been added any cream or foreign fat or any colouring matter, preservative or other chemical substitute of any kind;
- (b) Milk from which any portion of that part of the milk known as strippings has been retained;
- (c) Any milk taken or drawn from a cow that he knows to be diseased at the time the milk is so taken or drawn from her.¹

Persons Liable.—The person on whose behalf any milk is sold, sent, supplied or brought to a cheese or butter, or condensed milk, or milk powder, or casein manufactory, or to a milk or cream shipping station, or to a milk bottling establishment in violation of law respecting sale or supply to such places, is *prima facie* liable for the violation of the law.²

Inspecting Premises.—Any person charged with the enforcement of the law respecting the sale and supply of milk to a manufactory or milk or cream shipping

¹ Canada, 1914, ch. 7, sec. 4.

² Canada, 1914, ch. 7, sec. 11.

station, or to a milk bottling establishment, can enter the premises of any person suspected of violating the law, for the purpose of making an examination of dairy products therein.³ This power is very extensive, as it permits the entry of any premises to make an examination of dairy products, and the marking thereof, whether such dairy products are on the premises of the manufacturer or owner, or on other premises, or in the possession of a railway or steamship company or elsewhere.⁴

Evidence of Adulteration.—For the purpose of establishing the guilt of any person charged with the violation of any of the provisions of the law respecting supply or sale of milk to manufactories, or milk or cream shipping stations, or milk bottling establishments, it is sufficient *prima facie* evidence on which to found a conviction to show that the milk sent, sold, supplied, or brought to a manufactory as aforesaid to be manufactured into butter or cheese or condensed milk or milk powder, or milk sent, sold, supplied or brought to a milk or cream shipping station or to a milk bottling establishment, is substantially inferior in quality to pure milk, if the test is made by means of a lactometer or Babcock milk tester or some other proper and adequate test, and is made by a person holding a dairy school diploma or certificate, or by a graduate of any recognized agricultural college, or by any other competent person.⁵

Milk Test Glassware.—The testing of glassware used in connection with milk tests is provided for by law.⁶

³ Canada, 1914, ch. 7, sec. 15.

⁴ Canada, 1914, ch. 7, sec. 15.

⁵ Canada, 1914, ch. 7, sec. 19.

⁶ Canada, 1910, ch. 59, sec. 2.

The sale of any test bottle, pipette, or measuring glass used in connection with the testing of milk or cream, unless tested and marked accurate, is prohibited by law.⁷ However, this does not apply to burettes or measures used in connection with the Babcock milk test for measuring of sulphuric acid.⁸

MISCHIEVOUS ANIMALS.

I. Alberta.

Generally.—No mischievous animal is allowed to run at large in this province. The law in this respect has recently been consolidated, and it is the same throughout the whole province.¹

Animals Considered Mischievous.—A mischievous animal in this province includes any cross, dangerous, notoriously breachy or mischievous animal, any sheep which is shown to have trespassed on lands inclosed by a fence, whether lawful or not, and any hog.² The procedure to adopt is to lay an information on oath before a justice of the peace accusing the owner of having in his possession a mischievous animal contrary to law.

Procedure in Dealing With Animal.—On information made on oath before a justice that the accused owns or has in his possession any mischievous animal or animals, and that the said animal or animals are not confined or restrained in such a manner as to protect the public from injury or loss, such justice may, when the owner of such animal or animals is known, issue a sum-

⁷ Canada, 1910, ch. 59, sec. 3.

⁸ Canada, 1910, ch. 59, sec. 5.

¹ Alberta, 1920, ch. 33, sec. 5.

² Alberta, 1920, ch. 33, sec. 2 (j).

mons directed to such person or persons stating the matter of complaint and requiring such accused person or persons to appear before him at a certain time and place therein stated to answer such complaint, and upon conviction on the evidence of two credible witnesses other than the complainant the justice may make an order, with or without costs, requiring the accused to confine or restrain such animal or animals in such manner as to the justice may appear necessary.³ Upon default in compliance with such order the justice can, on summary conviction, impose a fine upon the owner or possessor of the animal or animals not exceeding \$50 and costs for each offence, and in default of payment thereof commit the offender to the nearest common gaol, with or without hard labour, until payment of the said fine or the expiry of thirty days, whichever shall first happen.⁴ When the owner of a mischievous animal is not known and no one claims possession of it, the justice may upon hearing the evidence of two credible witnesses, other than the complainant, make an order authorizing the complainant to deal with it as if it were a stray animal.⁵

Wild Horses.—Where it is shown to the satisfaction of the Minister that horses or cattle have escaped and become wild or are doing damage to settlers' crops and stock or endangering life, he may appoint a suitable person to capture, confine or otherwise take the said animals in charge and may make such regulations as to the sale or destruction of such animals and the appli-

³ Alberta, 1920, ch. 33, sec. 83.

⁴ Alberta, 1920, ch. 33, sec. 84.

⁵ Alberta, 1920, ch. 33, sec. 85.

cation of any money received in respect of them as to him may seem fit.⁶

II. Manitoba.

Dogs.—In any case wherein it is proved before a justice of the peace that any dog, concerning which complaint has been made, is mischievous with regard either to travellers or to ridden or harnessed horses or oxen or other cattle, and is in the habit of pursuing them, or any of them, or of startling or biting them, or any of them, or of chasing and annoying any sheep, elsewhere than on the land belonging to the owner or keeper of such dog, then such justice may order the owner or keeper of such dog to kill it, or order it to be killed, besides paying all costs of complaint, under a penalty not exceeding two dollars for every day such dog is allowed to live after the order.

MOTOR CARS.

Generally.—The law respecting motor cars is provincial in its operation. Each province has its own Motor Vehicle Act, which controls the use and operation, within the limits of the province, of motor bicycles, touring cars and automobiles of all descriptions. In each province there is a system of registration, and a license is issued by the government for all registered cars, on payment of a fee. The reader is advised to write to the police or government offices for information as to registration. The regulations are continually being changed, and these two parties usually have the latest information on the motor vehicle law in their

⁶ Alberta, 1920, ch. 33, sec. 86.

district. In no case should a car be operated without a license, and even then the reader should be careful to have the car number plates affixed before using the car.

Injuring Persons by Furious Driving.—Every one is guilty of an indictable offence and liable to two years' imprisonment who, having the charge of any motor vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, causes any bodily harm to any person.

Using Car Without Owner's Consent.—Every one who takes or causes to be taken from a garage, stable, stand, or other building or place, any automobile or motor car with intent to operate or drive or use or cause or prohibit the same to be operated or driven, or used without the consent of the owner, is liable, on summary conviction, to \$500 fine and costs, or twelve months, or both.

Stealing Automobiles.—Every one is guilty of an indictable offence, and liable to not less than one nor more than two years' imprisonment, who steals any automobile or motor car.

Automobile Accidents.—Whenever, owing to the presence of a motor car on the highway, an accident has occurred to any person or to any horse or vehicle in charge of any person, any person driving the motor car is liable, on summary conviction, to a fine of \$50 and costs or thirty days' imprisonment if he fails to stop his car and, with intent to escape liability, either civil or criminal, drives on without tendering assistance and giving his name and address.

MUNICIPAL HAIL INSURANCE.

I. Alberta.

Act.—The municipal hail insurance law of this province is contained in *The Municipal Hail Insurance Act, 1918*.¹

Area Under Insurance.—The municipal hail insurance law of this province applies only to that portion of the Province of Alberta lying to the south of that line of demarcation described as follows: Commencing at the point where the North Saskatchewan River crosses the fourth meridian; thence westerly along the said North Saskatchewan River to that point where it meets the range line between ranges twenty (20) and twenty-one (21), west of the fourth meridian; thence westerly along the north boundary of township fifty-six (56) to the range line between ranges twenty-one (21) and twenty-two (22) west of the fourth meridian; thence northerly to the north boundary of township fifty-nine (59); thence westerly along the north boundary of the said township fifty-nine (59) to the range line between ranges six (6) and seven (7) west of the fifth meridian; thence south along the said range line to the North Saskatchewan River; and thence along the said river to the western boundary of the province. The hail insurance law does not apply to any land that is subdivided into blocks and lots.²

Council to Submit Law for Approval of Electors.—The council of every municipal district lying within the area to which the Act applies must submit to the electors of such districts at the first election for coun-

¹ Alberta, Annual Statutes, 1918, ch. 20.

² Alberta, Annual Statutes, 1920, ch. 19, sec. 2.

cillors to be held after the passing of the Act a by-law, in the form prescribed by the Minister and in accordance with the procedure prescribed by *The Municipal Districts Act* for the voting on debenture by-laws, as to whether the municipal district shall be brought under the operation of this Act, the result to be decided by a majority of the electors actually voting.³ The council of any municipal district which has voted against coming under the operation of the Act at the time of the election and the council of any municipal district which may be formed after that date and lying within the described area may at any time submit to the electors of such municipal district a by-law as hereinbefore provided for the purpose of bringing such municipal district under the operation of the Act. The council of any municipal district within or without⁴ the described area, but not within the hail insurance district, on the receipt, on or before the fifteenth day of November in any year, of a petition to that effect signed by not less than 15 per cent. of the electors of such municipal district, as shown by the last voters' list, must, at the next meeting of the council but not later than the fourth Monday in the month of December following, arrange for the submission to the electors at the next ensuing election of councillors, a by-law as hereinbefore provided to bring the municipal district under the operation of the Act. Any owner or occupant of land lying within a municipal district within the area to which this Act applies, but not lying within or without⁵ one of the municipal districts constituting the hail

³ Alberta, Annual Statutes, 1920, ch. 19, sec. 3.

⁴ Alberta, Annual Statutes, 1920, ch. 19, sec. 3 (2).

⁵ Alberta, Annual Statutes, 1920, ch. 19, sec. 3 (2).

insurance district, may, on application to the secretary-treasurer of the municipal district within which his land lies, and subject to the discretion of the board and to such terms and conditions as may be prescribed by the board consistent with the provisions of the Act, become entitled to the privileges and become subject to the provisions of the Act to the same effect as if his lands lay within a municipal district which had elected to be subject to the provisions of the Act, and it is the duty of the municipal council to levy such rates on such owner or occupants as are required by the Act, and to pay the amounts, as collected, to the board, together with any penalties on arrears.⁶ Immediately following the vote on the by-law, the secretary-treasurer of each municipal district so voting must forthwith forward to the minister a statement showing the result of the voting, and in the event of forty-five or more municipal districts electing to come under the operation of the Act, the Minister may, by order (notice of which must be forwarded to each of the said municipal districts and published in *The Alberta Gazette*) establish the municipal districts so electing "The Hail Insurance District."

Disorganization of District.—At any time after the expiration of five years from the establishment of the hail insurance district any of the municipal districts constituting same may by by-law approved by a majority of the electors actually voting⁷ in the manner hereinbefore prescribed withdraw from such hail insurance district upon such terms as the Minister may deem just and upon such withdrawal the minister has power to

⁶ Alberta, Annual Statutes, 1920, ch. 19, sec. 3 (2).

⁷ Alberta, Annual Statutes, 1920, ch. 19, sec. 4.

settle and adjust the assets and liabilities of the board among the municipal districts composing the hail insurance district, and, if less than forty-five municipal districts remain in such hail insurance district, to wind up the affairs of the board, and his decision is final in regard to all matters connected therewith.

Hail Board.—Municipal hail insurance is under the direction of a board of nine members, to be known as "The Hail Insurance Board of Alberta." The members of this board are elected by representatives of the municipal districts constituting the hail insurance district, one representative to be appointed by the council of each municipal district.

Meetings of Representatives.—The first meeting of the representatives of the municipal districts in the hail insurance district is called by the minister. It is held at Calgary, on the third Wednesday of March. In each year thereafter a meeting of the representatives of the municipal districts is held on the third Wednesday in March, for the purpose of receiving the report of the board as to its operations during the preceding year, the election of new members of the board and for any other business arising out of the Act. The board may at any time, (should it consider the same necessary or expedient) convene a special meeting of representatives. The board must, on the receipt of a petition signed by the reeves of at least twenty-five per cent. of the municipal districts constituting the hail insurance district, convene a meeting of representatives.

Calling of Meetings.—All meetings of representatives after the first meeting are convened by the secretary of the board, mailing a notice thereof to the secre-

tary-treasurer of each municipal district constituting the hail insurance district, in the case of annual meetings thirty days, and in the case of special meetings fifteen days, prior to the date fixed for such meetings.

Quorum.—At any meeting of representatives so convened the presence of thirty-six representatives is necessary to constitute a quorum.

Remuneration of Representatives.—Representatives are remunerated out of the funds of the board at the rate of \$4.00 for each day or part of a day necessarily occupied by them attending such meetings, together with the actual cost of transportation incurred and paid by them.

Election of Board.—At the first meeting of representatives held after the Act came into force the meeting elected the board of nine members as by the Act provided. At all annual meetings of representatives held subsequent to the first meeting three members must be elected. They hold office for three years. Retiring members are eligible for re-election. Notwithstanding the duration of office of members fixed above, at any meeting of representatives properly convened, they may on a vote of at least two-thirds of those present at such meeting recall the appointment of any member or members of the board and elect a substitute or substitutes to fill the vacancy or vacancies so created.

The Board a Corporate Body.—The board is a corporate body, with office in the City of Calgary, and has the following powers: (1) To carry on the business of hail insurance under the provisions of the Act; (2) to borrow money for the purpose of carrying out the objects of its incorporation, to hypothecate, pledge and

mortgage its property, rights, assets and prospective revenues, and to sign bills, notes, contracts, and other evidences of or securities for money borrowed or to be borrowed for the purposes aforesaid; (3) to invest any reserve funds or surplus, as the same may from time to time be accumulated, in such manner as may be approved by the Lieutenant-Governor-in-Council.

Proceedings of the Board.—The board may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit and determine the quorum necessary for the transaction of business. Questions arising at meetings are decided by a majority of votes. In case of an equality of votes the chairman has a second or casting vote. Any three members may at any time summon a meeting of the board.

Chairman.—At the first meeting of the board to be held after the annual meeting of delegates they appoint one of their own members as chairman and assign his duties and fix his salary. If at any meeting of the board the chairman is not present at the time appointed for holding the same, the members present choose some one of their number to be chairman of such meeting. In the event of the office of chairman becoming vacant through death, resignation, or otherwise, the board can take immediate steps to fill the vacancy.

Disqualification of Members Not to Invalidate Acts.—All acts done at any meeting of the board or by any person acting as a member of the board are, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such member or person acting as aforesaid or that they or any of

them were disqualified, as valid as if every such person had been duly appointed and was qualified to be a member.

Appointment of Manager.—The board appoints a manager who is responsible for the management of the business of the board. He engages, appoints and dismisses all employes (except the secretary-treasurer and chief adjuster), and assigns to them their respective duties. The board also appoints a secretary-treasurer and chief adjuster, who is under the supervision and control of the manager.

Remuneration of Board.—No member of the board other than the chairman is entitled to occupy any salaried position in connection with the operations of the board under the Act. Members, other than the chairmen, are entitled to remuneration for their services at the rate of eight dollars for each day, or part of a day, occupied by them in attendance at meetings of the board, together with the actual cost of transportation and subsistence incurred and paid by them.

Vacancies on Board May Be Filled.—In the event of the resignation or death of any member of the board, the remaining members may appoint any person to fill the vacant office until the date of the next meeting of representatives, when any vacancies which may have occurred during the year shall be filled. Any member of the board elected in substitution for any member who has resigned or died or who has been removed from office holds office only for the unexpired term of the member whose place he has taken.

By-laws and Regulations.—The board may from time to time make such by-laws or regulations, not contrary

to law or inconsistent with the provisions of the Act, for the administration or control of its property and business and for the conduct in all particulars of its affairs as may be considered necessary or expedient for the carrying out of the provisions of the Act according to their true intent and meaning.

Appointment of Auditors. — The board closes its books as at the thirty-first day of January in each year, and on or before the fifteenth day of May in each year appoints an auditor or auditors, who, on or before the fifteenth day of February following, make a full and complete audit of the books, records and accounts of the board for the year ending as at the thirty-first day of January. For the purposes of such audit they have access to all the books, records, accounts, vouchers and receipts of the board, and must, by the fifteenth day of February, prepare and deliver to the board a full and complete report of the audit. Such auditor or auditors cannot be otherwise employed by the board. The board, immediately on receipt of such auditor's report, prepares and publishes a complete report of its operations during the preceding year, and a copy of such report is mailed to the minister and to the reeve and secretary-treasurer of each municipal district at least ten days prior to the date of the annual meeting. If the board neglects or refuses to make such an audit, the minister may appoint an auditor or auditors, who has the same rights and duties as if he or they had been appointed by the board.

Crop Reports. — All owners or occupants of land within the hail insurance district and liable to assessment under the Act, must, on or before the fifteenth

day of June in each year, forward to the secretary-treasurer of the municipal district within which such land is situated a return in the form prescribed by the board showing (1) the name and address of the person making the return; (2) the acreage of the land owned or occupied by him within the area of the municipal district; (3) the nature of the crops sown thereon and the acreage and location of each crop sown; (4) the amount of insurance per acre desired in accordance with the requirements of the Act. In case any owner or occupant refuses or neglects to make the return and as a result it becomes necessary for the secretary-treasurer of the municipal district to otherwise ascertain the facts, in order to make to the secretary of the board the statement provided for, any costs or charges that the secretary-treasurer may incur in connection with any particular portion of land, in obtaining such facts, become immediately due and payable by the owner or occupant to the secretary-treasurer, and if not paid can be charged against the said land when making the ordinary levy under the Act.⁸ The secretary-treasurer of each municipal district constituting the hail insurance district must obtain returns as to all crops grown within his municipal district, and for that purpose must furnish all persons requiring the same with the necessary forms to be supplied by the board. On or before the first day of July in each year he prepares and forwards to the secretary of the board a statement, in such form as may be prescribed by the board, showing in detail the names of each owner of or person occupying land within such municipal district, whether the owner or occupier has made the return required by

⁸ Alberta, Annual Statutes, 1920, ch. 19, sec. 5.

the immediately preceding section or not, and embodying in schedule form such particulars as may be required by the board.

Withdrawals.—Any owner or occupant liable to assessment under this Act may, prior to the sixteenth day of June in any year after the coming into force thereof, by written notice to the secretary-treasurer of the municipal district within which the land in question lies, withdraw from the operation of this Act any land in respect of which he is liable to assessment; provided, however, that in case of land that is leased it cannot be withdrawn except upon the written request of both the owner or occupant and the lessee.⁹ Any land withdrawn from the operation of this Act as herein provided shall remain so withdrawn until such time as application in writing shall have been made by the owner or occupant thereof to the secretary-treasurer of the municipal district within which the same is situated for the re-inclusion of such land within the operation of this Act, and in the case of land that is leased, if the application to be reincluded is made by the lessee, the written consent of the owner or occupant must be obtained. In all cases where crops are insured on lands that are leased, the owner or occupant has a first lien upon all crops grown upon the land, as security for the payment of the tax or such part of such tax as is properly chargeable against the lessee's share of such crops.¹⁰ When any crop insured under the Act is destroyed from any cause other than hail, the owner or occupant of the land on which such crop was growing, by sending notice by registered letter addressed to the

⁹ Alberta, Annual Statutes, 1920, ch. 19, sec. 6.

¹⁰ Alberta, Annual Statutes, 1920, ch. 19, sec. 6 (3).

hail insurance board at their office in Calgary, not later than the twentieth day of July in any year, giving the location of the crop and furnishing proof satisfactory to the board of such destruction, may withdraw such crop from the operation of the Act for the current year and he is entitled to a proportionate rebate in respect of the hail insurance tax payable for crop so withdrawn. However, no rebate can be granted for any portion of such crop that may be harvested.

Claims.—Any person owning a crop or a portion of the crop or any person having an interest therein upon lands subject to assessment which is damaged by hail between the sixteenth day of June and the fifteenth day of September, both inclusive, or in the case of fall wheat and rye, between the first day of June and the fifteenth day of September, both inclusive, must within three days from the date on which such damage has been sustained, give notice of such damage to the hail insurance board at Calgary by registered letter, such notice to be in the form prescribed by the board and shall show in detail (1) the name and address of the claimant; (2) the nature of the crop and the legal description of the land upon which it was grown; (3) the number of acres damaged; (4) the percentage of damage done; (5) the nature and amount of the claimant's interest in the crop; (6) if there be any other person or persons jointly interested with him in the said crop, the nature and amount of their interest therein; (7) in case such claimant does not reside within two miles of the location of the crop in respect of which claim is being made, the name of some party resident within two miles of such crop who will act as the agent of

such claimant and the section, township and range where such agent resides, and such agent shall be recognized by the adjuster making the inspection as representing the claimant for the purposes of the inspection. If for any reason notice of loss is not given within three days of the date of such damage the costs of adjustment may, in the discretion of the board, be charged against the claimant.¹¹

Adjustment and Award.—Upon the receipt of any such claims the board, through its proper officer, immediately instructs an adjuster to inspect the crop. He makes every possible effort to see the claimant, or, in the absence of the claimant, his agent, and, upon the completion of the inspection, appraises and reports upon the claim and recommends to the board the indemnity which he thinks should be payable. The adjuster must endeavour to secure the written concurrence of the claimant or his agent to the report and recommendation as to compensation made by him, and the report and concurrence (if any) must be forwarded to the board. If the adjuster has been unable to secure such concurrence the reason of his failure to do so must be stated in the report. A copy of such report must be forwarded to the claimant or his agent, and if the claimant or his agent is dissatisfied with such report he may within five days of the receipt of such report by him mail by registered letter addressed to the hail insurance board at its office in Calgary notice of appeal therefrom stating reasons therefor. The board considers the allegations of all persons so appealing as soon as conveniently may be and can call for further evi-

¹¹ Alberta, Annual Statutes, 1920, ch. 19, sec. 7.

dence, which is taken by way of statutory declaration or otherwise as the board may direct, and can vary or confirm the report of the adjuster as it may deem proper. The decision of the board as to the amount of the loss so sustained by any claimant and the indemnity payable therefor is final and conclusive, and cannot be questioned by any court on any grounds whatsoever.

Maximum Indemnity.—The maximum indemnity to be paid for total loss is six, eight or ten dollars per acre, as shown in the return made under the Act. However, if no such return has been made until after the insured crop has been damaged by hail the maximum indemnity for total loss is six dollars per acre.¹² No liability as to indemnity exists with reference to any portion of an insured acreage in which the damage done by hail in such portion is less than 5% of the actual value of the crop on such portion.¹³ The indemnity is exempt from garnishment, attachment and execution.¹⁴

Share of Indemnity.—In the event of any claim being made for indemnity for damage under the terms of the Act in respect of any land worked by a lessee on "share of crop" basis the amount of the indemnity must be paid over to the lessor and lessee on the same basis as the agreement for the division of the crop unless the terms of the lease or agreement of sale otherwise provide, and in the event of any arrangement between the owner and the occupant as to the allocation of any indemnity payable under the Act such arrangement

¹² Alberta, Annual Statutes, 1920, ch. 19, sec. 8.

¹³ Alberta, Annual Statutes, 1920, ch. 19, sec. 8 (2).

¹⁴ Alberta, Annual Statutes, 1920, ch. 19, sec. 8 (2).

forms the basis of the division of the indemnity to be followed by the board.

Payment of Claim.—The board, within thirty days of the date of its decision as to the amount of indemnity to be paid, makes payment of such sum to the person or persons entitled thereto, but deducts therefrom (1) the amount of arrears of hail insurance tax owing by such person or persons to the municipal district within which the said damaged crop was situate, and which sum must be paid to the secretary-treasurer of such municipal district to be credited by him upon the arrears so owing by such person or persons; and (2) a sum representing ten per cent. of the total insurance under the Act carried by such person or persons within the municipal district within which the damaged crop, in respect of which such indemnity is payable, was situate, and until such time as the rate of tax payable under the Act for the then current year has been determined, when the board remits to the secretary-treasurer of such municipal district out of the moneys so deducted the amount of tax so payable by such person or persons for the then current year, together with the arrears deducted, and remits to such person or persons direct the balance, if any, remaining in their hands. The board must pay all indemnities awarded under the Act out of the reserve fund, if any, or by means of moneys borrowed by them by virtue of the powers herein contained.

Fixing the Rate.—The board immediately subsequent to the fifteenth day of September in each year, proceeds to fix the rate to be levied upon each acre of crop insured by virtue of the Act. The total assessment must

be sufficient (1) to pay all expenses of administration, together with interest and other charges upon money borrowed; (2) to pay all indemnities awarded by the board during the year; (3) to create and maintain a reserve fund equal to eight per cent. of the total risk during the then current year. No contribution to the reserve fund, in any year, must exceed twenty per cent. or be less than ten per cent. of the total indemnities paid for the then current year unless the necessary reserve can be maintained by less.

Amount Payable By Municipal Districts.—Immediately after the rate has been fixed the board must apportion the total amount to be levied among the various municipal districts in accordance with the respective acreages under crop, and, on or before the first day of October in every year, must notify the secretary-treasurer of each municipal district as to the rate of the tax and the total amount payable by such district.

Assessment Payable By Municipal District to the Board.—Every municipal district constituting the hail insurance district must, on or before the thirty-first day of December in the year in respect of which the tax is levied, pay to the board the sum payable by such municipal district. Such sum is a debt due by such municipal district to the board, and bears interest at the rate of eight per cent. per annum from the time the same became due until paid, and may be recovered by action in any court of competent jurisdiction in the Province of Alberta.

Assessment of Tax.—Upon receipt of notice from the board as to the rate to be levied the secretary-treasurer of each municipal district assesses the owners of the

land upon which the insured crop is grown with the tax levied by virtue of the Act. The taxes are levied in the same manner and subject to the same penalties for non-payment as municipal taxes.

Borrowing of Money.—The board may by resolution authorize its chairman and secretary-treasurer from time to time to borrow from any person, bank or corporation such sum as the board may deem necessary to carry on the business of the district, and for the payment of unpaid awards. The sum so borrowed is a debt owing by the district and recoverable as such. It is repaid out of and is a first charge upon the moneys received by the board from any municipal district in payment of the assessment. The board may by such resolution authorize that the sum so borrowed may be further secured by such promissory note or notes, assignment, covenant or agreement of the chairman and secretary-treasurer given under the seal of the board as may be fixed by such resolution. The council of any municipal district may by resolution authorize the reeve and treasurer to borrow from any person, bank or corporation such sums of money as may be required to enable it to pay in full the hail insurance board the amount of the rates herein provided for during the then current year, and the making of such loan by any municipal district for such purpose does not limit or impair its borrowing powers under any act or law fixing or limiting the same. Such loan may be secured by promissory note or notes of the reeve and treasurer, given under the seal of the municipal district and on behalf of the council, and the amount so borrowed is repaid out of and is a first charge upon the

taxes which are collected for hail insurance purposes for the year in which such amount was borrowed. In every year all taxes collected by any municipal district for hail insurance purposes and all moneys borrowed under this section must be kept by the council of such municipal district in a separate account and deposited in a chartered bank in a trust fund to be styled "Hail Tax Trust Fund;" and must only be paid thereout to the Hail Insurance Board in payment of the assessment provided for, and to any person, bank, company or corporation from which the municipal district has borrowed money.¹⁵

Penalties.—Any person who fails to perform any duty or send in any notice or return required of him by the Act or who makes a return or statement under the Act which is wilfully false or misleading in any particular, or who performs any act forbidden herein, is guilty of an offence and, upon summary conviction, shall be liable to a penalty of not less than ten dollars nor more than fifty dollars.

II. Saskatchewan.

Act.—The municipal hail insurance law of this province has recently been revised and consolidated. Practically the whole law governing municipal hail insurance in Saskatchewan is contained in *The Municipal Hail Insurance Act, 1920*.¹

The Association.—There is an association called "The Saskatchewan Municipal Hail Insurance Association," consisting of representatives of all the municipalities which exercise the powers provided by the Act. Each

¹⁵ Alberta, Annual Statutes, 1920, ch. 19, sec. 10.

¹ Saskatchewan, Annual Statutes, 1919-20, ch. 30.

municipality is represented by one delegate, appointed by the council. Delegates need not necessarily be members of the councils of the respective municipalities which they represent, but they must be resident electors of such municipalities.

Head Office.—The head office of the association is at Regina, in the Province of Saskatchewan.

Association a Corporate Body With Power to Borrow Money.—The association is a corporate body, and has the following powers: (1) To borrow money for the purpose of carrying out the objects of its incorporation, hypothecate, pledge and mortgage its property, rights, assets and prospective revenues, and to sign bills, notes, contracts, and other evidences of or securities for money borrowed or to be borrowed for the above purposes; (2) to invest any reserve funds or surplus, as the same may from time to time be accumulated, in such manner as may be approved by the Lieutenant-Governor-in-Council; (3) to transact the business of indemnifying against loss occasioned by hail the owners of crops growing within the area of municipalities which exercise the powers conferred by the Act.

Annual Meeting.—The association holds an annual general meeting of its members for the election of directors, for the presentation and consideration of the reports of the officers of the association and for the transaction of such other business as may come before the meeting under the provisions of this Act.

Board of Directors.—There is a board of nine directors, who are paid such remuneration as the association may determine. All directors shall hold office for three years. Three directors retire each year and a sufficient

number is elected by the association each year to fill the vacancies occurring. Directors need not be delegates.

Voters.—The persons entitled to vote at all general meetings of the association are the appointed delegates of the municipalities.

Election of Officers.—The directors meet immediately after the annual general meeting of the association and organize by electing from their own number a president and vice-president and appointing a secretary and treasurer who may, or may not, be directors. One person may be appointed to the joint office of secretary and treasurer.

Executive Committee.—The directors appoint an executive committee, consisting of the president, vice-president and one other member of the board, any two of whom constitute a quorum.

Powers of Committee.—The executive committee has such powers as may be delegated to it from time to time by the directors.

Fixing Salaries.—The directors may engage and fix the salaries or compensation of all officers, agents and employees of the association, and may define their duties. If it be deemed advisable they may delegate such powers to the executive committee or to such officer or officers as may be in control of the association's business.

Vacancies in the Board.—The directors may fill any vacancy that may occur in the board, and the person appointed holds office until the next general meeting.

By-laws.—The association may from time to time make such by-laws as may be deemed expedient for all

or any of the following purposes: (1) Providing for the administration, management and control of its property and business; (2) requiring reports to be made to the association by municipalities or officials of municipalities and by persons liable to assessment, showing the acreage under crop in each municipality exercising the powers provided by the Act, or the crop acreage in respect of which the person reporting is assessable in each such municipality, the crops growing thereon and the names of the owners and the situation of each such crop, and providing penalties for failure to comply with the terms of the by-law; (3) providing for the conduct in all particulars of its affairs as may be considered necessary or expedient for carrying out the provisions of law according to their true intent and meaning. The directors possess all the powers of making by-laws hereinbefore conferred upon the association, but no by-law of the directors must be contrary to or inconsistent with an unrepealed by-law of the association, and any by-law made by the directors may be amended or repealed by a by-law duly passed by the association.

Audit and Report.—The association closes its books on or before the last day of February in each year, and immediately thereafter a full and complete audit is made of its books, records and accounts by one or more chartered accountants. On completion of such audit there must be prepared and published a full and complete report of operations during the last preceding fiscal year. A copy of such report must be furnished to the minister and to the reeve and the secretary-treasurer of each municipality.

Municipalities May Indemnify Losers from Hail. —

Any municipality may, jointly with other municipalities, undertake the indemnification of owners of crops growing within the area of all such municipalities against loss occasioned by hail. Every municipality other than those above mentioned may be admitted to the benefits and rights upon such terms as by by-law the association may direct. The council of any municipality may, at a regular meeting thereof held between the first day of August and the first day of October in any year, resolve to submit to the electors at the next ensuing annual election, a by-law empowering the municipality to engage in this undertaking. Such by-law must be in proper form, and receive its first and second reading on or prior to the first day of October. It must be submitted and voted upon at the regular annual election then next ensuing.

By-law Must Be Submitted.—Upon receipt before the first day of November in any year of a petition to that effect, signed by not less than 25 per centum of the resident ratepayers of the municipality, the by-law receives its first and second reading as soon as possible thereafter, and the council submits same to be voted upon. Forthwith after any such by-law receives its second reading the secretary-treasurer notifies the minister of such action having been taken.

Publication of Proposed By-law.—Forthwith after the second reading of any such by-law the secretary-treasurer causes the same to be published in two successive issues of a newspaper published in or nearest to the centre of such municipality, or a newspaper circulating in the municipality, together with a notice. The

publication is completed within a month of the date of such second reading.

Ballots, Duties Respecting.—For the purpose of taking the votes the secretary-treasurer prepares and procures ballots, supplies the deputy returning officer for each polling subdivision within the municipality with a sufficient number of ballots for all persons who may be entitled to vote upon such by-law within his polling subdivision, together with three copies of the by-law, two of which it is the duty of the deputy returning officer to post up in conspicuous places in his polling booth. One of them is kept by him for reference.

Deputy Returning Officer's Duties.—The deputy returning officer must, when delivering ballots to voters for the election of municipal officers, hand one to each voter entitled to vote upon the by-law, and must record in the polling book for such election in a separate column the fact of having done so and of such ballot having been cast. The voting upon such ballot and the essentials to the legal sufficiency thereof, the number of votes cast for and against the by-law and the statement and returns as to same and as to the result of the voting thereon, must be in accordance *mutatis mutandis* with the provisions and formalities required with respect to the election of municipal officers at such elections.

Voters' Qualifications.—The persons entitled to vote upon such by-law must be all ratepayers of the municipality, except those who are qualified only in respect of lands within the limits of a hamlet or lands held under grazing lease from the Dominion of Canada. In case of a vote on a repealing by-law no person is

entitled to vote who has withdrawn his land from the operation of the by-law for the current year.

Duties of Secretary-Treasurer Where By-law Assented To.—In the event of any such by-law receiving the assent of the majority of the voters voting thereon the council must, on or before the tenth day of January next after such voting, finally pass the same. The secretary-treasurer must prepare, certify and forward to the minister during the same month two copies thereof, together with a certified statement by the returning officer of the votes cast for and against. In case the by-law fails to receive such assent, the secretary-treasurer must, nevertheless, forward to the minister such certified statement on or before the date above mentioned.

Publication of Approval.—Upon the publication of the Minister's approval of the by-law in *The Saskatchewan Gazette*, and not earlier, it comes into force and is valid and binding to all intents and purposes. The minister forthwith causes notification to be given to the association of the publication of his approval of such by-law, and, in case of a repealing by-law, of the withdrawal of the municipality from the benefits of the Act. Thereafter in case of a repealing by-law no claims for losses arising within such municipality are valid or recognized by the association.

Assessment.—Upon publication in *The Saskatchewan Gazette* of the Minister's approval of the by-law all persons become liable to be assessed for a rate of four cents per acre, together with such additional rate, if any, as may be imposed, upon all the lands within the municipality (exclusive of lands within any hamlet

therein and lands held under grazing lease from the Dominion of Canada) upon or in respect of any interest in which they are assessable for municipal purposes. The publication of such approval constitutes a valid and sufficient notice to all persons concerned of their liability to assessment, and the rates levied in each year thereafter remain, until paid, a charge and tax upon such land or upon any interest therein of the party assessed, notwithstanding that the title to such land may be in the Crown or that the lands themselves are otherwise not liable to assessment. Where at any time previous the Minister's approval of a by-law has been published in *The Saskatchewan Gazette* but the secretary-treasurer of the municipality omitted to publish a notice of such approval, as required by the statute at the time in force, all persons in the municipality are nevertheless deemed to have become liable to be assessed and to have been assessed by virtue of such by-law for the special rate and the additional rate, if any, on the first day of May in the year in which such omission took place, in the same manner and to the same extent in all respects as if the said notice had been duly published.

Directors to Fix Rate.—The directors fix, annually, a rate per acre in addition to the flat rate of four cents per acre to be levied on all the land of an owner or occupant under crop in excess of forty acres, such rate to be collected in the same manner as the said flat rate.

Report By Persons Liable to Assessment.—Every person liable to assessment must, on or before the first day of June in each year (subject to the provisions of

any by-law), make a report to the secretary-treasurer of the municipality, in a form to be prescribed by the association, giving a legal description of the land in the municipality in respect of which he is assessable, together with the number of acres actually under crop or intended to be put under crop in the current year. He is bound for purposes of assessment and in case of loss by hail by the statements contained in such report. If the assessable person fails to make such report on or before the date mentioned, the secretary-treasurer or such other official or officials as the council may appoint can certify to the best of his or their knowledge and belief the name of the owner, or occupant, the legal description of the land and the number of acres cropped. The owner or occupant is then bound by these facts, and the crop acreage in respect of which he is insured is the crop acreage so certified.

Withdrawal of Lands.—Any owner or occupant of land within the municipality may, prior to the first day of June in any year, by written notice to the secretary of the association, withdraw from the operation of the by-law the following lands in respect to which he is liable to assessment, upon satisfying the association and the council that the same are (1) one or more quarter-sections completely inclosed by a substantial fence in good repair of not less than two strands of wire on posts not more than thirty-three feet apart and actually used by him for grazing and hay purposes only; or (2) an unpatented quarter-section held by him under homestead, pre-emption or purchased homestead entry from the Dominion of Canada, upon which there are less than forty acres under cultivation; or (3) one or more quar-

ter-sections with less than forty acres per quarter under cultivation, the remaining portion of which is completely inclosed by a substantial fence in good repair, of not less than two strands of wire on posts not more than thirty-three feet apart, and actually used by him for grazing and hay purposes only. The owner of land within the municipality not exceeding in area 640 acres may withdraw from the operation of the by-law by written notice to the secretary of the association, prior to the first day of June in any year, upon satisfying the association and the council that not less than twenty-five per cent. of the said land is under cultivation. The owner of land within the municipality exceeding in area 640 acres may withdraw from the operation of the by-law by written notice to the secretary of the association, prior to the first day of June in any year, upon satisfying the association and the council that not less than fifty per cent. of the said land is under cultivation.

Consideration of Notices of Withdrawal.—The secretary of the association, immediately after the first day of June, transmits to the secretary-treasurer of the municipality a list of all notices of withdrawal affecting the municipality, together with particulars of same, and the council, during the month of June, considers each such notice and must, if satisfied that the land specified therein may properly be withdrawn, approve the withdrawal. Forthwith after such action of the council, and before the first day of July, the secretary-treasurer prepares and forwards to the association a detailed statement, verified by statutory declaration, of all the lands, the withdrawal of which has not been approved by the council. All withdrawals are subject to

review by the board of directors of the association, and, if the board decide that any withdrawal has been improperly made, it may order that the withdrawal be cancelled and that the rate or rates be levied against such lands. Upon receipt by the secretary-treasurer of a notice from the board to that effect, the secretary-treasurer cancels the said withdrawal. Any land withdrawn from the operation of the by-law remains withdrawn for a period of at least one year and until, upon the written application of the owner or occupant to the secretary of the association, the board directs that such land be again brought under the operation of the by-law and notifies the secretary-treasurer of the municipality of the terms and conditions upon which the application is granted, which reasonable terms and conditions the board is hereby authorized to impose. During the period of withdrawal the land is exempt from rates levied under the Act.

Crops Destroyed Otherwise Than by Hail.—When any crop insured under the Act is destroyed in any other manner than by hail, the owner or occupant of the land on which such crop was grown may, by sending notice by registered letter addressed to the secretary of the association at his office in Regina, not later than the twentieth day of July, giving the location of the crop and furnishing proof satisfactory to the board of directors of such destruction, withdraw such crop from the operation of the by-law for the current year, and in that case he is entitled to a proportionate rebate in respect of the rates payable for crop so withdrawn as provided in the by-law of the association in that

behalf. However, no rebate is granted for any portion of the crop that may be harvested.

Assessment and Collection of Rates.—The secretary-treasurer of the municipality enters upon the assessment roll of the municipality for the current year, against all lands and interests in lands within the municipality, not withdrawn, and against the persons to be assessed in respect thereof, the rates for the then current year, for raising a fund to carry out the purposes of the by-law and the provisions of the Act. Such rates are collected in the same manner as municipal taxes are collected, and if unpaid when due, are recoverable in all respects as municipal taxes on land are recoverable. With respect to the collection thereof, the municipal officers from time to time charged with the collection of the municipal taxes have the same powers and are subject to the same duties respecting the collection and recovery of municipal taxes within the municipality. In the event of any such rate remaining unpaid after the thirty-first day of October in the year in which they are levied, there is added thereto, by way of penalty, the sum of one dollar for every quarter section of land or portion thereof with respect to which such rates then remain unpaid. In the event of any such rate remaining unpaid after the thirty-first day of December of the year in which the same was levied, there is added thereto, by way of penalty, a sum equal to eight per cent. of the arrears. Upon the expiry of each succeeding year during which the whole or any portion of the combined amount of rate and penalty remains unpaid, an additional sum equal to eight per cent. of the arrears is added thereto.

Transmission to Association of Statement of Lands Assessable.—The secretary-treasurer (on or before the fifteenth day of June in each year, in which any rate assessed under the authority of this Act becomes payable), must forward to the secretary of the association a statement in the form prescribed, verified by statutory declaration, showing the full area of all lands in any way assessable within such municipality for the purposes of the Act. The secretary-treasurer must, on or before the first day of November in each year, remit to the secretary of the association the total amount of such rates according as the same have been or should have been assessed for such year. With the written consent of the board previously obtained, the secretary-treasurer may withhold from such remittance the total amount of the rates levied upon land title to which is in doubt or with respect to which the right of the municipality to assess is in dispute. In case of the punctual payment to the association on or before the said first day of November in any year, of the total amount of such rates as assessed for the year, the municipality may retain the full amount of all penalties imposed under the Act. Otherwise the same must be paid over to the association, along with the rates or the balance thereof as remitted from time to time.

Bank Account.—In the event of the secretary-treasurer being unable to remit the full amount of such rates, he must, immediately after the date fixed for such payment, open a separate bank account to be termed, "The Hail Insurance Trust Account," to which all hail insurance levies and penalties then collected must be transferred and into which such levies and

penalties thereafter collected are to be paid. He must also, forthwith, remit to the secretary of the association all moneys so transferred, and from time to time, remit moneys paid in, as directed by the association.

Remuneration to Municipality.—The association must allow to the municipality out of the moneys received from it such remuneration for services rendered as are fixed annually by the board of directors.

Interest on Arrears.—In case of rates levied for any year preceding the year in which the Act comes into force, and penalties imposed thereon, remaining unpaid, the municipality in default must pay to the association interest at the rate of eight per centum per annum upon the amount of the arrears.

Notice of Damage.—The owner of a crop or portion thereof upon land assessed and liable for rates who (between the sixteenth day of June and the fifteenth day of September, both days inclusive, in any year in which such land is so assessed), suffers loss through damage by hail to the standing crop on such land, of which he is the owner or tenant or the representative of either, must within three days of such damage being sustained, give notice thereof to the secretary of the association by registered letter addressed to him at Regina. Such notice must state: (1) the number of acres damaged; (2) the percentage of damage done; (3) the claimant's interest, if any, in the crop; (4) the interest, if any, of any other person in the said crop; (5) the name of the person responsible for payment of the hail insurance rates on the said land; (6) the section, township and range in which the claimant resides, and his usual post office address. It must be

witnessed and verified by a neighbour. In case such claimant does not reside within two miles of the crop in respect to which the claim is being made, such notice must contain the name, section, township and range of some person residing within two miles of such crop, who must be recognized by the inspector as the representative of such claimant for this purpose.

Inspector to Report Upon Claim.—The secretary of the association, upon receipt of any claim of loss, delivers or forwards the same to an inspector, who inquires into such claim, estimates the loss, and transmits a written report to the secretary of the association.

Rate and Basis of Fixing Indemnity.—Each claimant is entitled to receive out of the said fund indemnity of not more than five cents per acre for every one per centum of damage which the board may decide that he has sustained by hail over or upon his area of injured crop. No claimant is entitled to indemnity for any damage less than five per centum of the crop upon such hailed area at the time of damage. Damage from hail throughout the same season and upon the same area is treated as cumulative. In all cases where the loss or damage by hail is less than five per cent. of the crop upon such hailed area at the time of damage, the cost of inspection is paid by the claimant, and the amount of such costs added to the rates imposed.

Date When Payable.—All losses of which the association has had legal notice are paid by it before the fifteenth day of December in each year, but in the event of its total actual and estimated revenues not being considered by the association to be sufficient to pay all losses in full, the same are paid *pro rata*. In

the payment of losses by the association, whether in full or *pro rata*, priority is given to losses arising in municipalities which have discharged their indebtedness to the association in full on or before November 1 in the then current year, and the association may make such regulations as it deems equitable for the payment of losses arising in other municipalities under the Act. The secretary of the association must, if requested so to do by any municipality, retain out of the moneys so payable the amount owing by way of rates upon each quarter section of land with respect to which such moneys are payable, and must remit such moneys so retained to the secretary-treasurer of the municipality, to be credited by him upon the said rates.

Municipality's Liability for Moneys Collected to be a Debt to the Association.—All moneys to be collected by any municipality are a debt due by such municipality to the association, and may be recovered by it by action in any court of competent jurisdiction in the province. In case any municipality makes default in the payment of any moneys payable by it to the association, before the date fixed for the final adjustment and payment of losses as aforesaid, the association may apportion, pay out and apply all moneys otherwise received by it hereunder to satisfy and discharge all claims incurred within the limits of the municipalities, other than the municipality so in default, which may be entitled to the benefits of the indemnity herein provided, and may pay such claims in full without regard to claims which may have arisen within the limits of the defaulting municipality.

Council May Borrow.—The council of any munici-

pality may borrow from any person, bank or corporation, upon its promissory note, signed by the reeve and the secretary-treasurer, and secured by any portion of such rates and any penalties thereon from time to time remaining unpaid; such sums of money as may be required to enable it to pay in full to the association the amount of the rates assessed within such municipality under such by-law during the then current year, and may renew any such note from time to time. The securing of any such loan by any municipality does not limit or impair its borrowing powers under any Act or law fixing or limiting the same.

Association's Findings Final.—The adjudication of the association upon all claims for indemnity sent to it is determined upon the report of the inspector thereon. The association may require such further reports and evidence in considering any such claim as it may see fit, and the adjudication of the board upon each such claim and upon its apportionment among claimants is final.

Costs of Association, How Borne.—The costs and expenses of and in relation to the inspection and adjudication of all claims for indemnity are such as the association may tax and allow, and together with the allowance to and the expenses of the association and its officers, must be paid out of the funds in the hands of the association.

Suspension in Case of Arrears.—In the event of any municipality being in arrears to the association for an amount equal to two years' assessment, the directors may suspend the operation of the Act with respect to such municipality. Notice of such suspension must be

given to the secretary-treasurer of such municipality and published in *The Saskatchewan Gazette* and in the newspaper published nearest to the centre of the municipality on or before the first day of March in such year.

Neglect of Duty.—Any secretary-treasurer or other officer or person who refuses or wilfully neglects to perform any duty required of him by the Act or any by-law of the association, or who makes a return that is wilfully false or misleading in any particular, or who performs any act forbidden by the Act, is guilty of an offence and liable, upon summary conviction, to a fine of not less than \$10 nor more than \$100.

Failure to Transmit Report.—Any municipality which refuses or neglects to transmit to the association any report on or before the day fixed by by-law of the association for the transmission thereof, for every such neglect or refusal, is liable to a penalty of \$1 for every day during which the default continues. Such penalty may be deducted from any remuneration that may be due the municipality.

Minister May Extend or Alter Time for Performance of Acts.—If anything required to be done by or under the Act at or within a fixed time cannot be or is not so done, the minister may, by order, from time to time, appoint a further or other time for doing the same, whether the time within which the same ought to have been done has or has not expired. Anything done within the time prescribed by such order is as valid as if it had been done within the time fixed by or under the Act.

Exemption from Garnishment.—Moneys due as in-

demnity to claimants are exempt from garnishment or attachment and incapable of being assigned."

When Rights Cease.—The right to be indemnified for loss by hail, to which the owner of a crop may be entitled, ceases when the grain is cut or harvested or wholly destroyed by any agency other than hail.

III. Manitoba.

Act.—The law respecting municipal hail insurance in the Province of Manitoba is regulated by *The Municipal Hail Insurance Act*.¹

His Majesty, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:—

Rural Municipality May Pass Hail Insurance By-law.

—The council of any rural municipality may pass a hail insurance by-law to provide for the establishment of a fund out of which to indemnify any ratepayer of the municipality whose crop of wheat or other grain grown in said municipality shall, after the coming into force of said by-law, be destroyed or damaged by hail.

Submission of By-law to Electors.—After the second reading of hail insurance by-law, and before the final passing thereof, the by-law must be submitted to be voted on by the electors of the municipality, each of whom is rated on the last revised assessment as the owner of not less than twenty acres of land to the value of three hundred dollars and upwards. All the provisions of *The Municipal Act* in regard to the taking of a vote on a money by-law requiring the assent

¹ Manitoba, Revised Statutes, 1913, ch. 100.

of the electors, and all the proceedings incidental thereto, apply to the voting on the by-law.

Final Passing in Case of Recount.—If a petition for a recount be presented, the by-law must not be passed by the council until after the petition has been disposed of. The time which intervenes between the presenting of the petition and the final disposal thereof is not reckoned as part of the six weeks within which the by-law is to be passed.

When By-law Deemed to Have Received Assent of Electors.—The hail insurance by-law is deemed to have received the assent of the electors if two-thirds of the qualified electors resident in said municipality have voted thereon, and if a majority of the qualified electors voting on said by-law have voted in favour thereof.

Final Passing of By-law by Council.—If the by-law duly receives the assent of the electors, it must (within six weeks thereafter) be finally passed by the council. The council finally passing the by-law need not be composed of the same members as the council which introduced or submitted said by-law to vote.

Rate Not to Exceed 3 Cents Per Acre.—There can be imposed upon each taxable acre of land in any municipality in which a hail insurance by-law is enacted such a rate as the council of the municipality may in each year deem requisite for the purposes of such by-law. The rate is imposed by by-law (called the Rate By-law), to be passed by the council in each year. The rate must not exceed three cents per acre, and it must be levied until a fund amounting to ten thousand dollars has been collected or until such hail insurance by-law has been repealed.

Rate to be Inserted in Tax Roll and Collected as Taxes.—The rate must be inserted in each tax roll to be prepared next after the coming into force of said hail insurance by-law in a column headed "Hail Insurance Rate." The amount inserted in such roll as such rate against any individual and parcel of land is thereafter held to be taxes due from such person or against such land, and may be collected as such and be subject to the same provisions regarding collection of taxes as are imposed by *The Assessment Act*.

Rates When Collected to be Remitted to Municipal Commissioner.—All taxes collected are remitted by the municipality to the Municipal Commissioner on or before the first day of February in each year, after all deductions.

Municipal Commissioner Trustee for Municipality.—The Municipal Commissioner holds the moneys in trust for the municipality, and may invest the same from time to time in any way in which the Provincial Treasurer is authorized to invest the Consolidated Revenue Fund of the Province or any trust funds in his hands.

Appraisers.—After the by-law has been finally passed by the council, the council appoints not more than three appraisers to appraise the amount of compensation due any ratepayers of the municipality whose crop has been destroyed or damaged by hail.

Term of Office of Appraisers.—The appraisers first appointed hold office until the first day of January in the year following their appointment, after which date the council each year appoints three appraisers to hold office until the first day of January next following the date of the appointment.

Fees of Appraisers.—For each appraisalment an appraiser is entitled to receive from the municipality out of the hail insurance fund the sum of one dollar, together with mileage at the rate of ten cents per mile from his residence to the land at which the appraisalment takes place. The mileage is calculated one way only, and when two or more appraisalments are made, mileage is allowed only for the distance actually travelled. The expression “appraisalment” includes an appraisalment of total loss sustained by any one person on the whole of any particular parcel of land of which such person is the owner, taken as a whole, and cannot be separated for the purpose of multiplying the number of appraisalments.

Claims for Loss or Damage.—Any ratepayer of the municipality whose crop of wheat or other grain has been destroyed or damaged by hail after the coming into force of the by-law, and who wishes to prefer a claim, must within three days after such destruction or damage, notify in writing the clerk of the municipality, and accompany the same by the statutory declarations of himself and his nearest neighbour, setting forth: (1) the claimant's name; (2) a description of the land upon which the crop was growing; (3) the time when the loss occurred; and (4) the extent of loss.

Notice of Claim.—The notice must be served either by giving it to the appraiser or clerk personally, or by leaving it at his residence.

Appraisalment.—The appraiser upon receiving such notice forthwith proceeds to the land mentioned in the notice, and as soon as he deems it practicable, ascertains the extent of the damage done and determines the

amount of compensation to be allowed the claimant therefor.

Rate of Compensation.—The amount of compensation to be allowed to the claimant for wheat must not exceed four dollars per acre, and for oats, barley or other grain it must not exceed three dollars per acre. No compensation, however, is allowed to any claimant unless the loss is certified to by the appraisers as being at least thirty-three and one-third per cent. of his total crop.

Appraiser's Report.—The appraiser reports to the clerk of the municipality the result of his investigation, and the amount of the compensation, if any, allowed for the damage done. With his report he must transmit to the clerk the notice of claim served upon him. Should the amount of compensation certified to by the appraiser not amount to at least thirty-three and one-third per cent. of the total crop of a claimant, the cost of the appraisal is repaid by the claimant to the municipality forthwith, and if not so repaid it can be collected by the municipality from the claimant in the same manner as ordinary taxes.

Documents to be Submitted to Council.—At the next meeting of the council held after receiving the report of the appraiser, the clerk submits to the council the claimant's notice of claim and the appraiser's report.

Resolution of Council That Claim be Paid.—Upon receiving these documents the council passes a resolution requesting the Municipal Commissioner (out of the moneys in his hands for that purpose) to pay the claimant the amount of compensation allowed him by

the appraiser. Such payment can not be made until receipt of the resolutions.

Payment of Claims by Municipal Commissioner.—

The clerk of the municipality must, on the first day of November in each year, forward to the Municipal Commissioner certified copies of all such resolutions, which shall be the warrant of the Municipal Commissioner for paying the claimants the amounts mentioned therein. Such assessment is paid immediately after the first day of February next following. Should the Municipal Commissioner not have in his hands sufficient funds belonging to the hail insurance fund of the municipality out of which to pay said claims in full, he pays the same pro rata. After such settlement has been made, the municipality or the Municipal Commissioner is not liable for any further claim for the year for which such settlement was made. Money payable under the Act to parties sustaining loss is not liable to seizure or attachment by any process issued from any of the courts of this Province.

Repeal By-law.—At any time after a hail insurance by-law has been in force for at least one year, the council of the municipality, on receiving a petition signed by at least fifty electors qualified as aforesaid, whose names appear on the last revised list of electors of the municipality, asking them so to do, must pass a by-law repealing the said hail insurance by-law, and after the second reading of the said by-law, must submit the same to be voted upon by the electors so qualified. All the provisions of the Act respecting the voting upon a hail insurance by-law apply to the voting upon the repealing by-law. The repealing by-law is deemed to

have received the assent of the electors if three-fifths of all qualified electors actually voting have voted in favor of such repealing by-law. If such repealing by-law receives the assent of the electors, then no new hail insurance by-law can be submitted for a period of three years of the repealing by-law. All moneys in the hands of the Municipal Commissioner at the time of the final passing of such repealing by-law, received from the municipality, must be refunded to the said municipality.

NATURALIZATION.

I. Naturalization.

Act.—The naturalization law has recently been revised, consolidated, and brought up to date. It will be found in *The Naturalization Acts, 1914-1920*¹. The Act of 1919 has now been repealed and superseded. A person can obtain his naturalization papers only under these Acts. The procedure has been changed a good deal from what it was years ago, and it is now a matter which needs personal attendance before the court.

Application.—An alien desiring to be naturalized must apply for a decision establishing that he is qualified and fit to be naturalized. This application is made to a judge of a Superior Court or to a judge of a circuit, district, or County Court, and in the Province of Ontario to the Court of General Sessions of the Peace, and in the N.W. Territories to certain special persons.

Posting the Application.—The application for naturalization is delivered at the office of the clerk of court,

¹ Canada, Annual Statutes, 1914-1920.

or other proper officer of the court, during office hours. The application is posted by the clerk in a conspicuous place in the office. This notice is posted for at least three months before the application is heard by the court.

Opposition to Application.—At any time after the filing of the application for naturalization, any person objecting to the naturalization of the alien may file in court an opposition, in which shall be stated the ground of his objection.

Proof of Qualification.—The applicant produces to the court evidence that he is qualified and fit to be naturalized. He also personally appears before the court for examination, unless it is established to the satisfaction of the court that he is prevented from so appearing by some good and sufficient cause.

Order of Naturalization.—If the court decides that the alien is a fit and proper person to be naturalized and possesses the required qualifications, a certified copy of such decision is transmitted by the clerk of the court to the Secretary of State of Canada, together with the application and such other papers, documents and reports as may be required by any regulation made hereunder.

Issue of Certificate of Naturalization.—The Secretary of State of Canada thereupon issues a certificate of naturalization and sends the same to the clerk of the court to whom the application for naturalization was made. Upon the applicant taking and subscribing the oath of allegiance, which may be so taken and subscribed by any person duly authorized to administer judicial oaths by the laws of the province in which the

applicant resides, the clerk delivers the certificate to the applicant.

Effect of Naturalization.—A person to whom a certificate of naturalization is granted by the Secretary of State of Canada, is entitled to all political and other rights, powers and privileges, and is subject to all obligations, duties and liabilities, to which a natural-born British subject is entitled or subject. As from the date of his naturalization he has to all intents and purposes the status of a natural-born British subject.

Special Certificate in Case of Doubt.—The Secretary of State of Canada may, in such cases as he thinks fit, grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in the certificate that the grant thereof is made for the purpose of quieting doubts as to the right of the person to be a British subject. The grant of such a special certificate is not deemed to be any admission that the person to whom it was granted was not previously a British subject.

Persons Under Disability.—Where an alien obtains a certificate of naturalization, the Secretary of State of Canada may, if he thinks fit, on the application of that alien, include in the certificate the name of any child of the alien-born before the date of the certificate and being a minor. That child thereupon (if not already a British subject) becomes a British subject. Any such child may, within one year after attaining his majority, make a declaration of alienage, and he thereupon ceases to be a British subject. The Secretary of State of Canada may, in any special case in which he thinks

fit, grant a certificate of naturalization to any minor, whether or not the conditions required by the Act have been complied with. Except as above provided, a certificate of naturalization is not granted to any person under disability.

Persons Previously Naturalized.—An alien who has been naturalized before the passing of the new naturalization law may apply to the Secretary of State of Canada for a certificate of naturalization under the new Act, and the Secretary of State of Canada may grant to him a certificate on such terms and conditions as he may think fit.

II. Qualifications for Naturalization.

General.—The Secretary of State of Canada may grant a certificate of naturalization to an alien who makes an application for the purpose, and satisfies the Secretary of State of Canada: (1) that he has either resided in His Majesty's dominions for a period of not less than five years in the manner required by this section, or been in the service of the Crown for not less than five years within the last eight years before the application; and, (2) that he is of good character and has an adequate knowledge of either the English or French language; and (3) that he intends if his application is granted either to reside in His Majesty's dominions or to enter or continue in the service of the Crown.

Residence.—The residence required is residence in Canada for not less than one year immediately preceding the application, and previous residence, either in Canada or in some other part of His Majesty's domin-

ions, for a period of four years within the last eight years before the application.'

Discretion to Naturalize.—The grant of a certificate of naturalization to any such alien is in the absolute discretion of the Secretary of State of Canada, and he may, with or without assigning any reason, give or withhold the certificate, as he thinks most conducive to the public good, and no appeal lies from his decision. A certificate of naturalization does not take effect until the applicant has taken the oath of allegiance.

Women Marrying Aliens.—In the case of a woman who was a British subject previously to her marriage to an alien and whose husband has died, or whose marriage has been dissolved, the requirements as to residence do not apply, and the Secretary of State of Canada may, in any other special case, if he thinks fit, grant a certificate of naturalization, although the four years' residence or five years' service has not been within the last eight years before the application.

Service with the Crown.—A period spent in the service of the Crown may, if the Secretary of State of Canada thinks fit, be treated as equivalent to a period of residence in Canada.

III. Aliens and Their Status.

Generally.—Real and personal property of every description can be taken, acquired, held and disposed of by an alien in the same manner in all respects as a British subject. A title to real and personal property of every description can be derived through, from or in succession to an alien in the same manner in all respects as through, from or in succession to a natural-

born British subject. However, this law does not: (1) qualify an alien for any office or for any municipal, parliamentary or other franchise; or (2) qualify an alien to be the owner of a British ship; or (3) entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are expressly given him above; or (4) affect an estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before 4th July, 1883, or in pursuance of any devolution by law on the death of any person dying before that day. Of course, it must be remembered that once an alien becomes naturalized he then becomes a British subject and ceases to be an alien within the meaning of the above.

Trial of an Alien.—An alien is triable in the criminal courts, just the same as if he were a British subject.

Alien Enemies.—Where a certificate of naturalization has been granted in Canada during the present war to a person who, at, or any time before the grant of the certificate, was the subject of a country which at the date of the grant was at war with His Majesty, the Governor-in-Council may, upon the recommendation of the Secretary of State of Canada, refer for inquiry the question whether it is desirable that the certificate should be revoked. No certificate of naturalization can, before the expiration of a period of ten years after the termination of the present war, be granted in Canada to any subject of a country which at the time of the passing of the naturalization law was at war with His Majesty, but this does not apply to

(1) a person who (having served in H.M. forces or in the forces of His Majesty's Allies, or of any country acting in naval or military co-operation with H.M.) was not discharged from such service by reason of his enemy nationality, sympathy or associations; (2) a person who is a member of a race or community known to be opposed to the enemy governments; or (3) to a person who was at birth a British subject.

IV. Married Women and Infant Children.

National Status of Married Women.—The wife of a British subject is deemed to be a British subject, and the wife of an alien is deemed to be an alien. However, the wife of an alien may be naturalized in like manner and with the same effect as if she were a feme sole, but her naturalization shall not affect the status of her children of alien male parentage, whether born before or after the date of her naturalization. Where a man ceases during the continuance of his marriage to be a British subject, it is lawful for his wife to make a declaration that she desires to retain British nationality, and thereupon she is deemed to remain a British subject. Where an alien is a subject of a state at war with His Majesty it is lawful for his wife, if she was at birth a British subject, to make a declaration that she desires to resume British nationality, and thereupon the Secretary of State of Canada, if he is satisfied that it is desirable that she be permitted to do so, may grant her a certificate of naturalization.

Status of Widows.—A woman who, having been a British subject, has by or in consequence of her marriage, become an alien, does not, by reason only of the

death of her husband, or the dissolution of her marriage, cease to be an alien, and a woman who, having been an alien, has by or in consequence of her marriage become a British subject, does not, by reason only of the death of her husband, or the dissolution of her marriage, cease to be a British subject.

Status of Children.—Where a person being a British subject ceases to be a British subject, whether by declaration of alienage or otherwise, every child of that person, being a minor, thereupon ceases to be a British subject, unless such child, on that person ceasing to be a British subject, does not become by the law of any other country naturalized in that country. Where a widow who is a British subject marries an alien, any child of hers by her former husband does not (by reason only of her marriage) cease to be a British subject, whether he is residing outside His Majesty's dominions or not. Any child who has ceased to be a British subject may, within one year after attaining his majority, make a declaration that he wishes to resume British nationality, and thereupon he again becomes a British subject.

V. Revocation of Naturalization.

General.—Where the Secretary of State of Canada is satisfied that a certificate of naturalization granted under the new naturalization law, or under any previous naturalization law, has been obtained by false representation or fraud, or by concealment of material circumstances, or that the person to whom the certificate is granted has shown himself, by act or speech, to be disaffected or disloyal to His Majesty, the Secre-

tary of State of Canada may recommend that the certificate be revoked and the Governor-in-Council may, by order, revoke the same accordingly.

Grounds for Revocation.—The Secretary of State may recommend the revocation of a certificate of naturalization granted by him or granted under any previous naturalization law in Canada, in any case in which he is satisfied that the person to whom the certificate was granted, either (1) has during any war in which His Majesty is engaged, unlawfully traded or communicated with the enemy or with the subjects of any enemy state, or been engaged in or associated with any business which is to his knowledge carried on in such manner as to assist the enemy in such war; or (2) was not of good character at the date of the grant of the certificate; or (3) has since the date of the grant of the certificate been for a period of not less than seven years ordinarily resident out of H. M. dominions otherwise than as a representative or employee of a British subject, firm or company, carrying on business, or an institution established in H. M. dominions, or in the service of the Crown, and has not maintained substantial connections with His Majesty's dominions; or (4) remains according to the law of a state at war with His Majesty, a subject of that state. The revocation is made because the continuance of the certificate would not be conducive to the public good.

Revocation, When to Take Effect.—Where a certificate of naturalization is revoked the revocation takes effect from such date as the order of revocation may direct, and thereupon the certificate must be given up and cancelled, and any person refusing or neglecting

to give up his certificate is liable, on summary conviction, to a fine not exceeding five hundred dollars.

Effect of Revocation of Certificate of Naturalization.

—Where a certificate of naturalization is revoked, the Governor-in-Council may, upon recommendation of the Secretary of State of Canada by order direct that the wife and minor children (or any of them) of the person whose certificate is revoked shall cease to be British subjects. Any such person thereupon becomes an alien, but except where the Governor-in-Council directs as aforesaid, the nationality of the wife and minor children of the person whose certificate is revoked is not affected by the revocation, and they shall remain British subjects. However, it is lawful for the wife of any such person, within six months after the date of the order of revocation, to make a declaration of alienage, and thereupon she and any minor children of her husband and herself cease to be British subjects and become aliens. Furthermore, an order as aforesaid is never made in the case of a wife who was at birth a British subject, unless the Governor-in-Council is satisfied that if she had held a certificate of naturalization in her own right the certificate could properly have been revoked under this Act, and the provisions referring to cases for inquiry apply to the making of any such order as they apply to the revocation of a certificate.

Position After Revocation of Naturalization.—

Where a certificate of naturalization is revoked the former holder thereof is regarded as an alien and as a subject of the state to which he belonged at the time the certificate was granted.

NOTARY PUBLIC.

Appointment.—These are to be found in every province of Canada. They are appointed by the Government of the province. A fee is payable on appointment and the commission granted to them expires from time to time. The law usually requires a notary public to place near his signature on all documents the date when his commission expires, thus: "My commission expires on the 31st day of December, 1918."

Duties.—The duties of a notary public include attesting deeds or writings to make them authentic in another country. If a deed is sent up from the United States of America to be executed by someone living in this country it will be necessary to have the signature witnessed by a notary public. The notary must sign the name and place his seal on the document, and along with the document there should be sent a certificate showing the notary is in good standing in this country. This certificate is obtained from the Provincial Secretary and usually costs about \$1. The document is practically useless without the notary's seal and this government certificate.

Penalties.—Any person who (1) signs any document purporting to be an affidavit or statutory declaration as having been sworn or declared before him when such document was not so sworn or declared or when he knows that he had no authority to administer such oath or declaration; or (2) signs, uses or offers for use any document purporting to be an affidavit or statutory declaration which he knows is not or was not sworn or declared to, or was not sworn or declared to before a

proper officer in that behalf is guilty of an offence and liable, on summary conviction, to \$500 fine or six months or both.¹

NOTICES TO QUIT.

Generally.—This is a notice given by either landlord or tenant to the other terminating a continuing tenancy, or a lease for a fixed period of time, where such lease so provides. It would be advisable in most cases to have the notice prepared and served through a solicitor. The landlord and tenant may agree as to the length of such notice and the time when the tenancy may be terminated by such notice. They may provide for the tenancy being terminated by one or two months' notice. Until notice to quit is given the landlord and tenant can compel the other to continue the lease for the quarter, month or week, as the case may be.

Who Must Be Served With Notice to Quit.—It is not necessary, although it is always advisable, to serve the tenant personally. It is sufficient if an agent is served. Service on the wife or servant of the tenant is generally good if it can be shown that the tenant afterwards had word of the notice being served. The same remarks apply where the landlord is served, but it is always safest to effect personal service. The notice may be sent through the mails, but the letter should be registered.

Form of Notice to Quit.—The notice need not be in

¹ Canada, Annual Statutes, 1920, ch. 43, sec. 3.

any particular form. Where the tenancy was created verbally the notice may also be by word of mouth. It is safer always to serve the notice in writing. It should be properly addressed to the tenant. The premises occupied should be accurately described. The notice must not state that a part of the premises are to be given up, but must refer to the whole, and must state with certainty when the premises are to be given up, the exact date. The notice must be dated and signed by the person giving the notice to quit.

Time When Notice to Quit Takes Effect.—The notice must state the exact day when the tenant is to leave or the exact rental period at the end of which the notice is to take effect or if given to the landlord by the tenant the day the tenant intends to leave. That day is the last day of the year, quarter, month or week next following the service of the notice where the tenancy is a yearly, quarterly, monthly or weekly tenancy.

When Notice to Quit Must Be Given.—The notice must, to take effect, be served as follows: Where six months' notice is to be given in a yearly tenancy, service must be effected at least one day preceding the commencement of the last six months of the tenancy. If the tenancy is to be ended by a month's notice, service may be effected prior to the commencement of any month of the tenancy, and similarly in the case of a weekly tenancy. For example, if the letting is by calendar months and it is desired to serve the tenant with a notice to quit, the tenant to leave on June 30th, service of the notice to quit should be effected on a day prior to June 1st.

OLEOMARGARINE.

Generally.—“Oleomargarine” means and includes oleomargarine, margarine, butterine, or any other substitute for butter (1) which is manufactured wholly or in part from any fat or oil other than from milk and cream; (2) which contains no foreign colouring matter; and (3) which does not contain more than sixteen per cent. of water.¹

Manufacture, Importation and Sale Allowed for Prescribed Periods.—Notwithstanding anything contained in *The Dairy Industry Act*, 1914, chapter seven of the statutes of 1914, or in any other statute or law, the manufacture in and importation of oleomargarine into Canada is permitted until the thirty-first day of August, one thousand nine hundred and twenty; and the offering for sale, the sale, and the having in possession for sale of oleomargarine is permitted until the first day of March, one thousand nine hundred and twenty-one.²

License to Import.—No person can import oleomargarine into Canada without having first obtained from the Minister of Agriculture a license to import oleomargarine. Oleomargarine imported into Canada under these provisions can be imported free of customs duty.³

License to Manufacture.—No person can manufacture oleomargarine in Canada without first having obtained from the Minister of Agriculture a license to manufacture oleomargarine.⁴

Power to Cancel Licenses.—Any license for the importation, or for the manufacture of oleomargarine

¹ Canada, 1919, ch. 24, sec. 2.

² Canada, 1919, ch. 24, sec. 3.

³ Canada, 1919, ch. 24, sec. 4.

⁴ Canada, 1919, ch. 24, sec. 5.

may be cancelled by the Minister of Agriculture at any time for the violation of the law relating to the manufacture or sale of oleomargarine.⁵

Packages to Be Marked or Labelled.—No person is allowed to sell, offer for sale, or have in his possession, for sale, any oleomargarine, unless the packages containing such oleomargarine are marked or labelled "Oleomargarine."⁶

Regulations.—The Governor-in-Council may make such regulations as he deems proper with respect to—

- (a) the importation, manufacture, inspection and sale of oleomargarine;
- (b) the issuing of licenses for the importation and manufacture of oleomargarine;
- (c) the seizure and confiscation of apparatus and materials used in the manufacture of oleomargarine in contravention of any of the provisions of this Act, or of any regulation made thereunder; and
- (d) the efficient enforcement and operation of this Act.⁷

Penalties.—Any person who manufactures oleomargarine contrary to law, or who violates any of the provisions with respect to labelling packages, is liable to a penalty of not less than twenty-five cents for each pound and not more than fifty cents for each pound of oleomargarine so manufactured or sold, offered for sale, or had in possession for sale.⁸ In no case is the minimum penalty to be less than ten dollars.⁹

⁵ Canada, 1919, ch. 24, sec. 6.

⁶ Canada, 1919, ch. 24, sec. 7.

⁷ Canada, 1919, ch. 24, sec. 8.

⁸ Canada, 1919, ch. 24, sec. 9.

⁹ Canada, 1919, ch. 24, sec. 9.

PARTNERSHIPS.

I. General.

Partnership.—A partnership exists where two or more persons, but not more than twenty, carry on business together with a common view to profit. The profit or loss resulting from such business operations is shared among the persons so banded together in the proportions agreed upon between them. The capital may be supplied by one alone and the skill and labour by one alone or both may furnish both capital and labour. Persons receiving profits of a business are generally partners, but this is not necessarily so, and in cases where loans are made to partners and the interest paid to the lender with the profits or where employees are paid a share of the profits in addition to their salary or wages and other cases where persons such as the widow of a partner receives her deceased partner's share of the profits, are not cases of partnership.

Firms.—Persons who have entered into a partnership are styled a firm and the name under which the business is carried on is called the firm name.

Companies.—Joint-stock companies organized under a Provincial or a Dominion statute are not partnerships. Where more than twenty persons carry on business together they must form a company.

Joint Owners.—Joint or co-owners of property, i.e., those who own property which stands in the name of all of them, but are not engaged in business together for profit, are not partners even though they divide up the profits of the property from time to time.

How Partnerships Are Formed.—Partnerships may

be entered into by agreement in writing or by word of mouth. A written partnership agreement is the safest course. So many questions respecting the rights and duties of partners as between themselves arise in the course of the partnership operations that unless the agreement respecting the partnership has been reduced to writing misunderstandings and disputes can only with difficulty be settled. A solicitor should be employed to draw up the partnership agreement, and care should be taken to include in such agreement the length of time the partnership is to continue, the names of all partners and the firm name, the proportions of profits coming to each partner, the duties, responsibilities, etc., of each partner and any other matters concerning which it is desirable to provide.

Acts of Partners.—It is a general rule that each partner acts for the whole firm and binds all the other partners by his acts done in connection with the partnership business unless such partner had no authority from the other partners to do the act which he did and the person dealing with him knew he had no such authority. The firm is liable for the acts, representations and conduct of each partner done in the usual course of the partnership business in the same way that a principal is liable for the acts of his agent. The firm is not liable for any acts done by a partner which have nothing to do with the firm's business. When a partner acting in the usual course of the firm's business causes injury and loss to persons not partners both he and the other members of the firm are liable to such persons.

Debts of Firm.—All of the partnership property is

liable for the debts of the firm, and whenever the firm's property is insufficient to satisfy the creditors of the firm the private property is liable to the full extent of the debts due by the firm.

Misapplication of Moneys.—When one partner acting in the usual course of the firm's business receives moneys from other persons and misapplies it or where the firm receives moneys of other persons and one of the partners misapplies it, the whole firm is liable.

Trust Moneys.—Where one partner who is a trustee of trust moneys uses the trust moneys in the firm's business the members of the firm are not liable personally but the trust moneys can be recovered from the firm.

Holding Out to Be Partners.—Persons who by words or conduct represent themselves to the public to be partners in any partnership are liable to any persons who give credit to any firm on the faith of such representations although the persons so representing themselves to be partners are not in reality partners and their names do not appear upon the declaration to be filed.

Notice.—Notice of any fact to one member of a firm is good to all members of a firm.

Dying and Outgoing Partners.—A deceased partner's estate is liable only for such partnership debts as were incurred before that partner's death and not for debts incurred after his death.

Incoming Partners.—An incoming partner is not liable unless he specifically agrees to be liable for any debts or liabilities of the firm incurred before he be-

came a member, but is only liable for debts incurred by the firm after he become a member.

Retiring Partners.—A retiring partner is liable only for debts incurred before his retirement, and may be discharged from liability for those debts by an agreement entered into by all the partners and all the existing creditors.

Partnership Property.—Partnership property must be used solely in the firm's business and not for the private use of any partner. Property bought with the firm's money is deemed to be partnership property.

Termination and Dissolution of Partnership.—Unless there is a different provision in the partnership agreement partnerships are terminated as follows: (1) Where entered into for a certain time, by the expiration of that time; (2) where entered into for a particular transaction or venture, by the termination of such venture; (3) where entered into for an indefinite time, by any partner giving notice to the others of his intention to dissolve the partnership; the partnership is dissolved from the date of service of said notice upon the other partners; (4) where a partner dies or makes an assignment for the benefit of creditors, or allows his share to be charged by a creditor, the partnership thereupon ceases; (5) if any event occurs making it unlawful to continue the business the partnership must be dissolved; (6) where the partners of a firm refuse to dissolve the partnership, any partner can bring an action against the firm and compel a dissolution, and where any partner becomes insane or incapable of continuing the partnership business; and where any partner is guilty of such misconduct as to prejudice the partner-

ship business; and where any partner breaks any term of the partnership agreement or so conducts himself that the other partners cannot conduct the business with him; and where the partnership is carried on at a loss or cannot for any other good reason be advantageously carried on.

Registration and Notice of Dissolution.—Upon dissolution of partnership a declaration in the form given should be filed in the same office where the declaration of partnership is filed. It must be signed by all of the partners. A notice of dissolution must usually be published for a number of issues in the provincial gazette. This should be carefully attended to, because the firm and each partner will be liable to persons dealing with the firm who have no notice of the dissolution. After dissolution the authority of each person continues to the extent necessary to wind up the partnership. The partnership is dissolved as soon as the notice dissolving it is served on the partners.

Winding Up on Dissolution.—As soon as the partnership has been dissolved in any of the ways above mentioned and the declaration has been filed and the notice published as required, the partnership business should be wound up as speedily as possible. All assets of the firm should be realized upon by sale and outstanding debts, etc., collected in the same way as in the winding up of a company or the estate of a person deceased, or one who has made an assignment for the benefit of creditors. The assets so realized are usually distributed as follows: (1) In paying debts and liabilities of the firm to persons who are not partners; (2) in paying to each partner what is due to him for loans to the part-

nership (3) in paying back to each partner the capital originally contributed by him (4) the balance, if any, should be divided among the partners in the proportion to which they are entitled to profits. In case the firm is insolvent, not only will there be no funds to be divided among the partners, but each partner will be required, out of his own private means, to satisfy all the debts of the firm. In the case of a partner dying and the other partners continuing the business the partnership is liable to the executors or administrators of such partner for his share of capital and profits.

POUND LAW.

I. Alberta.

[Outside Municipalities.]

Generally.—Pound districts can be established outside municipal areas in this province, under the new laws respecting domestic animals recently consolidated and brought up to date.¹ It will be noticed that this new law only deals with *extra-municipal areas*. The old law is still continued in the other parts of the province until such time as the government, by proclamation, puts the new law into effect in municipalities.² Consequently, the reader should find out in what locality he resides, whether inside a municipality or outside, before applying these laws to any case he may have to consider. In fact, the law respecting animals running at large is so intricate that a correct statement of the law cannot be given for all time, and the reader is

¹ Alberta, The Domestic Animals Act, 1920.

² Alberta, 1920, ch. 33, sec. 103.

strongly advised to consult the local municipal authorities to see just what the law really is in his district. The procedure for obtaining the erection of a pound district, and the law governing the same after erection, is provided for in the provincial pound law. The Lieutenant-Governor may by order in council, published in *The Gazette*, direct that any territory not less than the area of a township shall be a pound district, and that any or all domestic animals are prohibited from running at large therein. Such order sets out the classes of animals which are prohibited from running at large in the district, and the periods during which such prohibition is to exist. No part of any municipality is included in a pound district. Every pound district which exists at the date of the coming into force of this law is subject to its provisions.

Pound Districts.—Application for the formation of a pound district is made to the minister, with particulars for, and accompanied by declaration. At least thirty days prior to the date of the order in council constituting a pound district a notice of the application, setting out the particulars contained in such application, is published in *The Gazette* and one other newspaper and also posted in at least one post office within the proposed district, or if there be no post office therein then in the post office nearest thereto. The notice is addressed to the postmaster at such post office, enclosed in a registered cover. If at any time within thirty days after such notice is posted objection is made by a majority of the occupiers of land within such proposed district, accompanied by a declaration, the proposed district is not constituted. The Lieutenant-Governor

may by subsequent order in council published in *The Gazette* vary or alter the boundaries of any pound district or abolish or discontinue the same, or change the period fixed in any previous order for the prohibiting of animals as aforesaid, or add to or subtract from the list of prohibited animals therein contained.

Animals at Large.—No prohibited animal (i.e., any animal prohibited by order in council from running at large in a pound district) can run at large in an extra-municipal area which has been constituted into a pound district. An animal is said to run at large when it is off the premises of its owner and is not in charge of some person, or is not securely tethered or confined within a building or other enclosure or fence. Entire animals are usually prohibited unless pure bred.

Occupier's Rights.—Any occupier of land in a pound district may capture any animal prohibited by order in council and running at large therein and deliver it at the nearest accessible pound in the said pound district. When a prohibited animal running at large trespasses upon the land of any occupier of land in the pound district, he, whether or not the land in question is surrounded by a fence, may seize the animal and drive it to the nearest accessible pound in the district and deliver it to the poundkeeper to be impounded. Such occupier must at the same time deliver a written statement describing the animal impounded, setting forth the name of the owner (if known), the place where such animal was found trespassing, and the amount of damages claimed. The poundkeeper impounds the animal and is responsible for the feed and safe keeping thereof so long as he is legally bound to

hold the same. The poundkeeper is entitled to receive the amount of the damages caused by, and all charges for the keep of, the animal, and other incidental expenses, before delivering it up to the owner thereof.

Where Owner is Known.—If the owner of the animal so trespassing is known to the said occupier, the latter may temporarily impound such animal in any convenient place for a period not exceeding three days, but he must within twenty-four hours after such impounding forward by registered mail or deliver to such owner (or leave with some adult person at such owner's place of residence) a written notice describing the animal so impounded, and stating the place where the same was found trespassing and the amount of damages claimed and the place where the animal is impounded. The occupier must also feed and maintain such animal while so impounded. At the expiration of such period (if the animal is not sooner duly released) the occupier must deliver it to the keeper of the nearest accessible pound in such pound district, there to be dealt with as in the case of any other impounded animal. The occupier may make a charge for feeding and maintaining such animal and for forwarding or delivering the notice aforesaid not exceeding such as might lawfully be made by a poundkeeper, but is not entitled to any compensation for damage except for such as was done before the animal was impounded. No fees or claim for damage in respect of any animal can be paid to any person who impounds or detains such animal for more than three days in any place not being a pound district.

Where Land Has a Lawful Fence.—In the case of land surrounded by a lawful fence, the occupier thereof

is entitled to proceed as above in respect of any animal, whether the same be prohibited or not. Any such occupier is, moreover, entitled to the benefit of any action or other remedy or right that he might have at common law or otherwise by reason of the trespassing of any animal upon such land, but the taking of such proceedings is deemed a waiver by him of any such action, remedy or right in respect of the trespass in consequence of which such proceedings are taken. However, no right of distress *damage feasant* is exercisable by any owner of land in a pound district, except that above provided for.³

Poundkeepers.—The minister appoints one or more poundkeepers and gives notice of every such appointment in *The Gazette*, with the name and post office address of such poundkeeper and the location of the pound. All pounds established or poundkeepers appointed therefor at the time of the passing of this law are deemed to be pounds established and poundkeepers appointed under the provisions of the Act. Appointments of poundkeepers terminate on the thirty-first day of December in each year, but all poundkeepers are eligible for reappointment. Any poundkeeper wishing to resign his appointment may do so, but no such resignation takes effect until a successor to such poundkeeper is appointed. Failure on the part of the minister to appoint a poundkeeper operates as a discontinuance of the pound district, unless and until a poundkeeper is subsequently appointed.

Duties of Poundkeepers.—Every poundkeeper keeps a pound-book, as may be prescribed by the minister,

³ Alberta, 1920, ch. 33, sec. 20.

and makes all entries therein as soon as possible. The pound-book is open to the inspection of any justice or any member of the Royal Canadian Mounted Police or of the Alberta Provincial Police Force, or any constable free of charge, and of any other person upon payment of the sum of ten cents. Every poundkeeper must grant extracts from his pound-book to any person requiring the same upon payment of twenty-five cents for each extract not exceeding one hundred words and ten cents for each subsequent hundred words and ten cents for any number of words thereafter. Every poundkeeper must, at his own cost, keep the pound to which he is appointed clean and in good repair, and supply the animals impounded therein with sufficient and wholesome food and water. The poundkeeper may send such animals out of his pound at fit times and to fit places for grazing or watering. Every poundkeeper is responsible to the owner of any impounded animals for every loss or damage occasioned by any negligent act or default of himself or his agent. Every poundkeeper must make returns to the minister relating to the impounding of animals in his pound as may from time to time be required.

Payment of Charges on Impounded Animals—All fees and charges payable in respect of any impounded animal are payable in the first instance to the poundkeeper, who holds the same for the person entitled thereto. The owner of any animal captured or distrained is entitled, upon payment or tender to the person in possession (other than the poundkeeper) of such animal of the fees and charges incurred up to the time of such payment or tender and of the amount claimed by way

of damages to require the said animal to be forthwith delivered up to him. If in any such case the parties fail to agree as to the amount payable, the said animal must be forthwith delivered by the person in charge thereof to the poundkeeper, there to be dealt with in the ordinary manner under this part. Every poundkeeper must receive and detain in his custody every animal lodged in his pound until the damages for which such animal was impounded and all lawful fees and charges are paid or until he receives notice of the decision of a justice as hereinafter provided. The poundkeeper must deliver any impounded animal to any person whom he may reasonably suppose to be the owner thereof on receiving a bond in a sum fixed by the former and executed by two good and sufficient sureties for the payment of all damages, fees or charges payable under the provisions of the Act.

Notification of Impounding.—If the owner of any impounded animal is known to the poundkeeper the poundkeeper forthwith delivers at or posts to the address of such owner a notice. In case such owner is not known or such owner or person notified does not within three days after the posting or delivery of such notice appear at the pound and release the animal so impounded by the payment of the lawful fees, mileage rates and claim for damages, the poundkeeper forwards to the department for insertion in two consecutive issues of *The Gazette* a notice. In cases where the owner is *unknown* to him the poundkeeper must, in addition if the animal bears a brand, forward a copy of the notice by registered mail to the Recorder of Brands at Medicine Hat, who at once advises the poundkeeper

whether the brand described by him is a recorded brand or not. If the same is a recorded brand, he apprises the poundkeeper of the name of the owner by registered mail and he also notifies the owner by registered mail that an animal bearing his brand is confined in the pound. Every poundkeeper must, without charge therefor (in addition to any copies of any notice which he may be required under the Act to post or deliver), post a copy of every such notice in a conspicuous place at his pound and the nearest post office and keep and maintain such notice at his pound during the whole of the time such notice may refer to. When any animal is not released from the pound within twenty days after the first insertion of the aforesaid notice in *The Gazette*, the poundkeeper proceeds to sell the animal or cause it to be sold.

Complaint of Owner.—The owner of any impounded animal may, at any time before such animal is sold, give notice in writing to the poundkeeper of his intention to lodge a complaint with a justice setting forth the grounds therefor. Such complaint may be upon any or all of the following grounds: (1) That the impounding was illegal; (2) that the claim for damages is illegal; (3) that the damages claimed are excessive. If (together with the notice aforesaid) the owner deposits the amount claimed for damages and all charges and fees then due, the poundkeeper must deliver the impounded animal to him, if not already released in pursuance of the Act.

Proceedings Following Complaint.—Within ten days after giving the notice the owner may lodge his complaint as set forth in the notice with a justice of the

peace, who thereupon institutes the like proceedings as are authorized under Part XV of *The Criminal Code* for justices making orders for the payment of money; and, upon hearing the complaint, the justice may determine the matter of such complaint. If the justice adjudges that the animal impounded was *illegally impounded* as claimed the justice orders the said animal (if not released) to be restored to the owner, or if the animal has been released orders the money deposited with the poundkeeper to be repaid, and in either event the justice shall order the impounder to pay the costs of the proceedings and all fees the poundkeeper is lawfully entitled to. If the justice adjudges that *the impounding was legal but that the impounder is not legally entitled to damages*, the justice orders the amount deposited with the poundkeeper to meet the claim for damages, to be repaid to the owner by the poundkeeper; and he also orders that the owner's costs of the proceedings be paid out of the amount deposited by the owner in respect of fees and charges payable to the impounder, if there be sufficient for that purpose, and, if not, the balance constitutes a debt due by the impounder and recoverable in the ordinary manner, and the justice may in that event give judgment in favour of the owner for such balance as under *The Small Debts Act* if the same is not paid forthwith, provided the amount thereof is, or is reduced by the owner aforesaid so as to be, within the jurisdiction of the justice under the Act. If no money has been paid in by the owner, the justice orders the payment forthwith by the owner of the amount properly payable for fees and charges, and in default of payment of such amount the

animal impounded is sold and the proceeds applied in satisfaction thereof as directed by Part V of the Act, but the owner's costs of the proceedings must be paid by the impounder, and the justice may, then and there, give judgment in favour of the owner, in the manner above set out, unless the amount payable to the impounder by way of fees and charges is sufficient to satisfy the same, or unless the same are otherwise paid forthwith. If the justice adjudges that *the impounding was legal and that the impounder is entitled to a claim for damages but that his claim for damages is excessive* the justice orders the excess to be repaid to the owner out of the deposit, and if no deposit has been made he orders the owner to pay forthwith the amount properly payable for fees, charges and damages, in default whereof the animal or animals impounded are sold. In either case he orders the costs of the proceedings to be paid by the impounder and deducted from his claim for damages and fees, if sufficient, and the balance, if any, is a debt recoverable. If the justice adjudges that the animal was *legally impounded and that the impounder's claim for damages is legal and not excessive*, then the justice orders the amount deposited to be paid to the parties entitled thereto, and further orders the owner to pay the costs. If deposit has not been made as aforesaid, he orders the owner to pay forthwith the amounts claimed and payable for fees, charges and damages, together with the costs of the proceedings, and unless the owner pays forthwith the amounts ordered to be so paid by him the animal or animals is sold, as directed by Part V of the Act. If the animal has been released and there is then no other

animal of the owner impounded and liable to sale in satisfaction thereof, the justice may, if the amounts to be recovered are, or are so reduced by the parties entitled thereto respectively as to be within his jurisdiction under *The Small Debts Act*, give judgment therefor; otherwise any such amount is recoverable in the ordinary manner as a debt. An appeal lies from a decision of a justice to a judge of the district court. The appeal must be lodged with the clerk of the district within thirty days of the decision.

Common Law Rights of Action.—Nothing in above contained deprives the owner of any impounded animal of any action, right or remedy that he may have at common law or otherwise by reason of the same being unlawfully seized, distrained or impounded. If any such action be brought against a poundkeeper for anything done by him he may plead not guilty to such action, and if on the trial of such action it is made to appear that the poundkeeper on demand being made on him therefor gave to the plaintiff or his agent the name of the person who drove the animal to the pound and that he in all respects acted within his duties and powers as such poundkeeper, judgment must then be given for him with costs.

Poundkeepers' Offences.—If any poundkeeper (1) impounds or assists or incites or employs any person to impound any animal, unless such animal is found trespassing upon the poundkeeper's own land in the district, surrounded by a lawful fence, or, being a prohibited animal, is found running at large contrary to the provisions of this part, upon any land of the poundkeeper in the district or elsewhere in the said district;

(2) neglects to provide proper sustenance for any animal or works or uses the same in any manner while so impounded; (3) omits or neglects to keep books and make entries therein as required by this part or makes any incorrect or untrue entry in such books; (4) wilfully or negligently gives any incorrect description of any animal or animals in any case where he is required under this part to give a description thereof; (5) knowingly allows any animal infected with any contagious or infectious disease to be in the same enclosure with any impounded animal not so affected; (6) fails to give any notice required by this part; (7) neglects to do anything required by this part to be done by him, he is, in addition to any civil liability which he may incur by reason thereof, guilty of an offence and liable on summary conviction to a penalty not exceeding \$100. When any poundkeeper is charged with neglecting to provide sustenance for any impounded animal the burden of proving that proper sustenance was provided for such animal is on such poundkeeper, and when any poundkeeper is charged with losing any impounded animal through negligence if it be proved that such animal was impounded in the custody of such poundkeeper such animal is deemed to have been lost through his negligence unless such poundkeeper shall prove the contrary. When any poundkeeper has reason to believe that any animal impounded by him is infected with mange he must immediately notify the office of the Veterinary Director-General at Medicine Hat by registered mail.

Offences and Penalties.— In any pound district if *any person* commits any of the next following offences he is

on summary conviction thereof before a justice of the peace liable to a penalty not exceeding \$100; that is to say, if he (1) rescues or attempts to rescue or interferes with any animal impounded or seized for the purpose of being impounded; (2) destroys or injures or attempts to destroy or injure any pound; (3) illegally impounds any animal or impounds any animal in any place not authorized by law; (4) for the purpose of permitting any animal to trespass on any other person's land leaves open any gate or lets down any bar or bars or makes a gap in any fence surrounding or protecting the same; or wilfully causes any animal to trespass therein.

Fees.—The following fees are recoverable, in addition to any lawful claim for damages:—

- (a) To any person capturing and impounding any domestic animal other than an entire animal, for each animal so captured and impounded, 75 cents;
- (b) To any person capturing and impounding any entire animal, for each stallion, bull or jack, \$10; and for each boar, \$2;
- (c) To any person lawfully detaining any animal such fees for the sustenance of such animal and for notifying the owner of its detention as a poundkeeper is authorized to charge for like services;
- (d) To the poundkeeper to provide for the care and sustenance of each animal for each day such animal is impounded as follows:
For each stallion, bull or jack \$1.00

- | | |
|---|-----|
| For each horse, mule, ass, head of cattle | |
| or swine | .35 |
| For each sheep or goat | .10 |
| For each goose | .05 |
- (e) To the poundkeeper for notifying owner of animal impounded, 25 cents;
- (f) To the poundkeeper for forwarding notification to the department for insertion in *The Gazette*, 25 cents;
- (g) To the poundkeeper for posting notices of animals impounded, for each such notice (which shall include all animals impounded at one seizure), \$1;
- (h) In connection with proceedings before a justice such fees as would be recoverable on a proceeding under Part XV of *The Criminal Code*, except as to any matter or thing done under *The Small Debts Act*, as to which the fees allowed by that Act are payable.

II. Saskatchewan.

Generally.—The pound law in this province has recently been revised and consolidated. A new act respecting stray animals has been passed and the law respecting distraining and impounding animals is contained therein. The reader should be careful to note just under what circumstances and when, an animal may be impounded. Furthermore, it is not every animal that may be impounded. They are usually distrained when doing damage on cultivated land or to crops or stocks of grain or hay. It will be noticed that only “a proprietor” may distrain. “Proprietor” means

the owner of any cultivated land or crop or stack of grain or hay, or the person having a permit or license to cut hay, or a superintendent, overseer, tenant, servant, or other person acting for or on behalf of such owner or person.

When Animals May Be Distrained.—A proprietor may distrain any animal that is (1) running at large in any municipality contrary to the provisions of *The Stray Animals Act*, 1920, or of any by-law of such municipality passed under the provisions of that Act; or (2) running at large in a herd district between the fifteenth day of May and the thirty-first day of October, both inclusive, in any year; or (3) an estray.¹

Temporary Impounding.—The distrainer of an animal may, if he knows who is the owner, temporarily impound in a convenient and suitable place, for not more than three days, any animal distrained under the above provisions. The distrainer must within twenty-four hours after an impounding deliver to the owner a statement in writing and feed and maintain the animal. He may, at the end of such time, deliver same, if not sooner released, to the keeper of the nearest accessible pound in the rural municipality of which such distrainer is a resident or in the herd district if the distrainer resides therein. Such distrainer may make a charge for feeding and maintaining said animal, and for sending notice, not exceeding what might by law be paid to a poundkeeper, but is only entitled to compensation for damage done prior to the temporary impounding.²

¹ Saskatchewan, 1920, ch. 47, sec. 15.

² Saskatchewan, 1920, ch. 47, sec. 16.

When Distrainer Shall Impound and How.—Unless he complies with the above provisions the distrainer must forthwith deliver the animal distrained to the nearest accessible poundkeeper in the rural municipality of which such distrainer is a resident or in the herd district if the distrainer resides therein. The poundkeeper impounds same and is responsible for the sustenance and safe-keeping thereof while under his care. It is the duty of the distrainer to leave with the poundkeeper a written statement containing a description of the animal distrained, and name of the owner, if known, the place where such distraint was made, the nature and extent of the damage, if any, the amount claimed, and fees for impounding the same.

Animal May Be Released Before Impounding.—If the owner of a distrained animal pays or tenders to the distrainer, before the same has been actually impounded, the charges for which such animal has then become liable, the distrainer or person having charge of such animal must forthwith deliver up the same to the owner.

Animal to Be Placed in Authorized Pound.—A proprietor who impounds an animal in any pound or place not authorized by law is guilty of an offence and upon summary conviction thereof before a justice is liable to a penalty not exceeding \$20 and forfeits all fees and expenses connected with the impounding.

Book to Be Kept By Poundkeeper.—Every poundkeeper, whether appointed by the minister or by a council, must keep a pound-book in the form prescribed by the minister. All entries therein are to be made as soon as possible after the doing of the several things re-

quired to be entered therein, and no entry or alteration in or amendment to an entry is to be made after any dispute as to the subject matter of such entry has arisen. The pound-book and a copy of the pound law must at all reasonable times be open to the inspection of any justice or member of the Saskatchewan Provincial Police, free of charge, and of any other person upon payment of the sum of ten cents. Every poundkeeper must grant extracts from his pound-book to any person requiring the same, upon payment of twenty-five cents for each extract not exceeding one hundred words, and the sum of ten cents for every subsequent number of words not exceeding one hundred. Every poundkeeper on his removal from office or on the acceptance of his resignation must deliver the pound-book to the person who may be appointed to receive it.

Pounds.—Every poundkeeper must at his own cost keep the pound to which he is appointed clean and in good repair, and supply the animals impounded therein with sufficient and wholesome sustenance, and provide for them shelter as is commonly provided at the time for animals of similar age and class in the vicinity. He may send such animals out of his pound at fit times and to fit places for grazing or watering. In no case is a barbed wire corral to be deemed to be a suitable pound, unless such corral contains an area of at least twenty acres. Any corral or enclosure, other than a building, used as a pound, must be surrounded by a lawful fence.

Returns.—Every poundkeeper must make such return to the minister relating to the impounding of animals in his pound as may from time to time be required by him.

Charges.—All charges payable in respect of an impounded animal are payable in the first instance to the poundkeeper, who holds same for the person entitled thereto.

Receiving Animals at Pound. — Every poundkeeper must receive and detain in his custody any animal lodged in his pound until the damages for which such animal was impounded and all lawful fees and charges are paid, or until he receives notice of the decision of the justice after hearing a complaint. At any time prior to the sale of an impounded animal the owner thereof is entitled to obtain such animal upon payment of the damages for which it was impounded and all lawful fees and charges due to the poundkeeper at the date when payment is tendered to the poundkeeper.

Declaration of Owner.—Before delivering an animal to a person claiming ownership the poundkeeper may require from him a statutory declaration of ownership in the following form:

I (full name, address and occupation) do solemnly declare that I am the owner of (description of animal) and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act.

Declared before me at
this day
of 19

A Commissioner, etc. (or as the case may be).

Notice.—If the owner of an impounded animal is known to the poundkeeper, the latter must forthwith deliver or cause to be delivered to or at the place of residence of such owner a notice in the following form:

To (name of owner or, if the owner is not known, King's Printer).

Notice is hereby given under section 26 of The Stray Animals Act that the following described animal was on this day impounded in the pound kept by the undersigned on $\frac{1}{4}$ sec. tp.

rge.

W.

meridian

Postoffice.

Description
Class of animal and
age
Sex and colour
Brief general description.
Marks and brands, if
any.
Probable weight, etc

.....
Signature of Poundkeeper.

The poundkeeper is entitled to receive such mileage rates for so doing as are provided. If the place of residence of the owner or his servant is situated more than ten miles from the pound or is not readily accessible for any reason the notice may be sent by post by registered mail to the address of the owner. In case such owner is not known or does not within ten days after the posting or three days after the delivery of such notice appear at the pound and release the animal so impounded by the payment of the lawful fees, mileage rates and claim for damages, the poundkeeper then forwards to the King's Printer for insertion in *The Saskatchewan Gazette* a notice in the prescribed form, along with a fee of \$2 for each animal impounded. A poundkeeper appointed by a municipality also under like circumstances transmits a copy of such notice to the secretary-treasurer of the municipality, who posts same up in his office. Every poundkeeper must in addition post a copy of every such notice in a conspicuous place at his pound, and at the nearest post office, and keep and maintain such notices during the whole of the time such animal is in his custody.

When Impounded Animal May Be Sold.—Any animal not released from the pound within twenty days

after notice has been inserted in *The Saskatchewan Gazette* can be sold by public auction after notice of sale has been posted for eight days in three conspicuous places within the herd district or rural municipality, as the case may be, one of which places must be the post office nearest the pound. The poundkeeper is the auctioneer at such sale. It is held at the pound, and commences at the hour of two o'clock in the afternoon. It is not lawful for a poundkeeper or his agent to purchase or have any interest in the purchase of any animal at such sale.

► **When Animal May Not Be Sold.** — If more animals than one are impounded on any distress the poundkeeper, if aware of the owner, can sell only such of said animals as are necessary to realize sufficient to satisfy the claims for damages, expenses, and fees chargeable against same, the owner being entitled to those remaining unsold. If the owner is unknown the poundkeeper sells all the animals impounded. The poundkeeper immediately after such sale sends to the department, or to the treasurer of the municipality, as the case may be, a description of the animal or animals sold, the date of sale, a statement of the amount realized and the disposition thereof. If the proceeds from the sale or attempted sale of impounded stock should be less than the costs of sale, the fees authorized, and the damages claimed by the impounder, the difference may be collected by distress from the owner of the stock, if known, upon the order of the treasurer or the minister, as the case may be. Should there be no bidders present within two hours from the time advertised for the holding of a poundkeeper's sale any impounded

animal advertised to be sold at such sale becomes the property of the municipality upon the order of a justice to whom application may be made by the treasurer. The justice before issuing such order must ascertain that the sale was regularly held and that the animals were correctly described and advertised in accordance with the law, and for so doing he is entitled to payment of a fee of \$2.50 by the municipality.

Poundkeeper Need Not Be Licensed.—A poundkeeper making a sale under the provisions of this law is not liable to any penalty for selling without a license as an auctioneer.

Disposal of Proceeds of Sale.—The proceeds of the sale of an impounded animal sold under the provisions of this law are applied in payment (1) of any costs and charges attending such sale; (2) of all sustenance fees; (3) of the amount due to the distrainer for capturing and distraining and for the damage done; and the residue, if any, is paid to the owner of such animal or (if not claimed at the time of sale by any person entitled thereto) to the Minister, or to the treasurer of the municipality, as the case may be.

Owners to Claim Net Proceeds.—Money paid to the Minister or to the treasurer must be paid over to the owner of the animal sold, upon the furnishing of evidence of ownership, satisfactory to the Minister, or to the council, as the case may be, and upon application therefor to the Minister or treasurer within twelve months from the date of the sale; otherwise such money falls into and forms part of the consolidated fund of the province or the funds of the municipality, as the case may be.

What Action May Be Taken By Owner.—The owner of an impounded animal may give notice in writing to the poundkeeper that he intends to complain to a justice against the person impounding such animal; and upon receipt of such notice and on deposit with the poundkeeper of the amount claimed for damages, together with the pound and other authorized fees and charges, the poundkeeper releases such animal, and retains such amount subject to the order of the justice as hereinafter provided. Such complaint may be upon one or both of the following grounds: (1) That the impounding was illegal; (2) that the damages claimed are excessive. A justice cannot inquire into any such complaint unless notice thereof has been given, as required.

Hearings of Complaints.—Within ten days after giving the notice the owner may lodge his complaint with a justice, who thereupon institutes the like proceedings as are authorized under Part XV of *The Criminal Code* for justices making orders for the payment of money; and upon hearing the complaint the justice may determine the matter of such complaint. If the justice adjudges that the animal was *illegally impounded* he must order that the animal, if not already released, be restored to the owner, or, if released, that the money deposited with the poundkeeper be repaid, and in either event must order the distrainer to pay the costs of the proceedings and all fees to which the poundkeeper is lawfully entitled. If the justice finds, on a complaint laid, that the amount of damages sustained by the distrainer is *less than the amount claimed* he must order the excess and the owner's costs of the proceedings to

be paid to the owner by the poundkeeper out of the money paid in by the owner or to be paid by the distrainer in so far as the amount paid in by the owner is insufficient. If the justice adjudges that the animal impounded was *legally impounded*, or that the amount of damages sustained was not less than the amount claimed, he must make an order for the payment forthwith of the amount claimed by the distrainer, and all pound and other authorized fees, together with the costs of the proceedings. In default of such payment the animal impounded is seized by the poundkeeper and sold and the proceeds applied as directed.

Offences and Penalties.—A poundkeeper who (1) impounds or assists or incites or employs any person to impound any animal unless such animal was trespassing on the poundkeeper's own property; or (2) purchases in person or by his agent or has any interest of any kind in any animal sold by auction at a pound of which he is at the time of sale the poundkeeper; or (3) demands or receives any sum for pound notices, sustenance and other fees and charges not authorized; or (4) neglects to provide sustenance and proper shelter for any animal, or works or uses the same in any manner while so impounded; or (5) omits or neglects to keep books and to make entries therein as required or makes any incorrect or untrue entry in such books; or (6) knowingly allows any animal affected with any contagious or infectious disease to be in the same enclosure with any impounded animal not so affected; or (7) fails to give any notice required; or (8) does anything prohibited or neglects to do anything required to be done, whereby damage is incurred by any person; is, in

addition to any civil liability which he may incur by reason thereof, guilty of an offence and liable on summary conviction to a penalty not exceeding \$100. No poundkeeper is liable for any penalty for milking or allowing to be milked any cow while such cow is impounded. A person who (1) destroys or injures or attempts to destroy or injure a pound; or (2) illegally impounds an animal; or (3) drives an animal upon any cultivated land or to any stack or stock of grain or stack or coil of hay, is guilty of an offence and liable upon summary conviction thereof before a justice to a penalty not exceeding \$100.

Fees.—The following are the fees in connection with animals impounded within a municipality or the herd district:

(1) Persons.

1. To the person capturing and impounding any stallion over one year old or any bull over eight months old a fee of \$10.

(2) Proprietors.

2. For capturing and impounding any other animal, fifty cents for each such animal, but not more than \$5 for one impoundment.

3. For any damage done by any animal an amount not to exceed that mentioned in the statement of claim delivered to the owner or poundkeeper with the animal when impounded.

4. For notifying the owner or for every day any animal is lawfully detained before being placed in pound such fees for making such notification and for the sus-

tenance of such animal as a poundkeeper may be authorized to charge for like services.

(3) Poundkeepers.

5. For receiving and impounding, the sum of fifty cents for each animal, but not more than \$2.50 for one impoundment.

6. To provide for the care and sustenance of each animal for each day such animal is in a pound, such sums as may be prescribed by the minister.

7. For notifying by mail owner of animal impounded, ten cents.

8. For forwarding notification to King's Printer for insertion in *The Saskatchewan Gazette*, ten cents.

9. For posting notices of animals impounded, each notice to include all animals impounded at one distress or seizure, \$1.

10. For posting notices of sale, each notice to include all animals impounded at one distress or seizure, \$1.

11. For each mile necessarily travelled in the performance of his duties, ten cents.

12. For selling impounded animals and applying the proceeds as directed, \$2.50 per centum commission upon the amount realized.

13. For reimbursement of amount forwarded to King's Printer with notice for publication, the sum so forwarded.

Where the price received for the animal or animals sold is less than the poundkeeper's fees the council must make up the difference, unless the difference is collected from the owner of the animals sold.

RENT.

Generally.—Rent is the amount paid the landlord by the tenant for the use of the premises occupied by the tenant. It may be paid in money or goods. The lease should always specify definitely the amount of rent payable.

When, Where and How Payable.—Rent is due and payable on the first moment of the day upon which the parties have agreed in the lease or by word of mouth that it shall be payable. If no time is agreed upon the rent is payable yearly, quarterly, monthly, weekly, etc. It is not payable until the end of each year, quarter, month or week. Rent is not payable in advance unless the parties so agree. Rent is in arrear, i.e., overdue, on the first moment of the day following the day it is payable. The rent is, unless it is otherwise agreed, payable on the premises occupied by the tenant. The payment of rent to be legal must be made in legal tender, i.e., currency.

To and By Whom Payable.—The rent is payable by the tenant to the landlord or some one authorized by the landlord to receive the rent. If the tenant transfers his lease to another he continues liable for the rent; so also does the person to whom the lease is transferred. A sub-tenant is not liable to the landlord for rent but is liable to the tenant of the landlord. When the landlord dies the tenant must pay the rent to the executor or administrator of the landlord. If the landlord sells or mortgages the land leased, the tenant must, after notice to that effect, pay rent to the purchaser of the land or the mortgagee as the case may be.

Accelerated Rent.—It is sometimes provided in the

lease that the whole year's, quarter's or month's rent, as the case may be, may become immediately due and payable if any of the following events occur, namely, if the lessee's goods be at any time seized in execution or if the tenant at any time makes a chattel mortgage or bill of sale of his crops, goods, or makes an assignment for the benefit of creditors or abandons the premises or attempts to dispose of his farm stock and implements not having sufficient goods upon the premises with which to pay rent. In any of these events the rent would immediately become due and payable.

Tenant Evicted.—Where a tenant has been wrongfully evicted by the landlord or where his term has been declared forfeited by a judgment of the court he ceases to be liable for rent due after the eviction, except to the extent in a case of forfeiture he is found liable for such rent.

Premises Destroyed By Fire.—Unless otherwise provided for in the lease, the tenant is liable for the rent although the premises are rendered useless to him by being destroyed by fire. In every case provision for such an event should be made in the lease.

RURAL CREDITS.

I. Generally.

Rural Credit.—A system of rural credits has been devised by those who are endeavouring to bring about advancement in the farming industry. The greatest need is that of cheap money. The high rates of interest and the present state of the world has retarded the development of the rural credit plan, and up to the pres-

ent time no great progress has been made towards a general adoption, although prospects are a little brighter.

Co-operation.—The keynote of the rural credit system is co-operation. There must be co-operation between the banks and the government and the farmer. This is brought about in the rural credit legislation by a system of guarantees and assistance by the Government and the supply of ready money by banks or other financial houses. Societies are formed amongst the farmers, and these co-operative societies attend to the working details of the system.

Further Developments.—Further developments can hardly be expected until the present state of the money market changes and things become normal. However, each of the three Western provinces has on its statute books the necessary legislation, and it is only a matter of time before the law becomes general.

II. Alberta.

Act.—The rural credit law of this province is contained in *The Alberta Co-operative Credit Act*.¹

Co-operative Societies.—The organization of co-operative credit societies is permitted by the Act, and these societies are under the supervision of the Government. However, there are very few co-operative societies in this province as yet, and until the times change there will be little development along rural credit lines. There is other legislation in this province dealing with farm loans, and there was recently passed an Act respecting advances for the purchase of feed

¹ Alberta, Annual Statutes, 1917, ch. 11.

and for assistance to farmers², which provides a simpler method than the rural credit system. Particulars of this new legislation can be obtained from the Provincial Treasurer, Government Buildings, Edmonton. See also FARM LOANS.

III. Saskatchewan.

Act.—The law respecting rural credits is, in this province, contained in *The Agricultural Co-Operative Associations Act*.¹

Co-operative Credit Associations.—As the name implies, the system is based, in this province, on the formation of co-operative credit associations. However, as in all other provinces, the operation of this legislation is being retarded by the state of the financial market. Interest rates are high yet, and until there is some change along the lines of cheaper money, the rural credit system will not make much progress. However, the governments are taking the greatest interest in the system and developments may be expected. See also FARM LOANS.

III. Manitoba.

Act.—Rural credit in this province is regulated by a statute, the same as in other provinces, known as *The Rural Credits Act*.¹

Organization of Societies.—The Lieutenant-Governor-in-Council may authorize the organization of rural credit societies in any part of the province for rural

² Alberta, Annual Statutes, 1920, ch. 35.

¹ Saskatchewan, Annual Statutes, 1913, ch. 62.

¹ Manitoba, Annual Statutes, 1917, ch. 73.

credit purposes. The organization of such societies is begun by a petition addressed to the Lieutenant-Governor-in-Council and sent to the Provincial Secretary, signed by not less than fifteen farmers or persons engaged in or proposing to engage in agriculture, which petition setting out: (1) the names of the petitioners, with their respective addresses and occupations, and the lands owned, occupied or intended to be used by them and the amount agreed to be subscribed by each of them to the capital of the proposed society; (2) that the petitioners are desirous of organizing a rural credit society in a municipality or locality within the province, for the purposes and with the powers by this Act conferred; (3) the municipality or locality within which the chief place of business will be; (4) the proposed name of the society; (5) the amount of the capital stock and the number of shares into which such stock is divided, and the amount paid in on account of each subscription; (6) the names of not less than three nor more than seven of the subscribers who are to be provisional directors of the society. The Provincial Secretary may require further particulars. He furnishes forms of petition and of all particulars required to all parties desirous of forming such societies. The Lieutenant-Governor-in-Council thereupon issues letters patent incorporating the society, by name, authorizing the provisional directors therein named, to proceed with the organization of the society and to do all things necessary therefor. Immediately after the grant of letters patent to a society the Lieutenant-Governor-in-Council names an officer to act as secretary and treasurer of the society until the

organization of the society has been completed and a secretary and treasurer appointed, and such officer performs all the duties usually appertaining to those offices. The provisional directors thereupon proceed with the organization of the society, secure such further subscriptions to the stock of the society and such further amounts paid on account thereof as may be necessary to bring the same up to the amounts fixed as a minimum, and take all steps required. A meeting of all the subscribers for the purpose of electing directors representing the subscribers, completing organization and authorizing commencement of business, is then called. No society can commence business until it has received subscriptions to its capital stock from not less than thirty-five persons actually engaged in farming operations, or agreeing to engage within one year in farming operations, of the kinds hereinafter referred to, to the amount of not less than \$3,500, upon which not less than ten per cent. has been paid.

Government Co-operation.—The Government can subscribe for shares in each society to an amount equal to one-half of the total amount subscribed by the individual shareholders, and such stock is paid for in the same proportion and at the same times as the stock subscribed for by individuals. Such stock is held in the name of His Majesty in the right of the Province of Manitoba.

Municipal Co-operation.—The corporation of any city, town, village or rural municipality in the province can, by by-law, authorize an officer of the corporation to subscribe for shares in any society, and any two or more municipalities may combine for such purpose, but

the amount subscribed for by such municipal corporation or corporations cannot exceed one-half of the total amount subscribed for by individual shareholders, and such stock is paid for in the same proportions and at the same times as the stock subscribed for by individuals. Such stock is held in the name of the municipal corporation or corporations, but may be dealt with and acted upon for all purposes by such officer or officers as may be from time to time named therefor by such corporation or corporations. In the event of two or more municipalities combining in such subscription, the stock held by them may be held in the joint names of the corporations or severally in such proportions as they may agree upon, and may be acted upon in such joint or separate manner as they may from time to time agree upon. The council of any municipality has power by by-law to subscribe to the stock of any society to the extent and upon the terms herein provided on behalf of the municipality, and may pay for the stock subscribed for and take all steps incidental thereto, without taking a vote of the ratepayers, and may authorize, if deemed advisable, the issue of debentures for the amount of such subscription.

Directors.—The management of the business of the society is vested in a board of directors composed of nine members, elected in the following manner: Three directors are elected by the individual subscribers. At the first meeting, and at each annual meeting thereafter, three directors are named by the council or councils of the municipality or municipalities subscribing to the capital stock of the society, and three directors are named by the Government. The directors named

by the municipalities hold office for three years, one retiring each year, the three directors first elected retiring, respectively, on the 31st day of January next after the date of appointment, and upon the expiry of one and two years after the 31st day of January², as may be determined by the municipalities electing them. The directors named by the Government hold office for such periods as may be determined from time to time. One of the directors named by the Government shall be a graduate of the Manitoba Agricultural College, or otherwise specially qualified in agricultural pursuits, devoting his time to agricultural work, or instruction. He is available at all reasonable times for consultation with the members of the society, and advises the members and the directors. Immediately after the first meeting of individual subscribers the acting secretary reports the proceedings thereat to the Provincial Secretary and to the secretary of each municipality subscribing to the stock of the society, and as soon as may be convenient thereafter the Lieutenant-Governor-in-Council and the council or councils of such municipalities name the directors and officers which they are respectively entitled to name, and give notice of the persons' names and their addresses to the acting secretary. On receipt of the names of all directors the acting secretary calls a meeting of all directors for the purpose of electing officers and completing organization. At such meeting the directors elect from amongst themselves a president, a vice-president, and a secretary-treasurer, and notice of the names of all officers and directors is at once forwarded to the Provincial Secre-

² Manitoba, Annual Statutes, 1920, ch. 109, sec. 1.

tary and to each subscribing municipality. From and after the date of such meeting the society is entitled to carry on business and to exercise all the powers conferred by the Act, *provided the minimum amounts of subscription and cash payments required have been received.* The directors may appoint to the office of secretary-treasurer, or as secretary, or as treasurer, any person not a member of the board of directors, if they deem it in the interests of the society to do so. No officer or director, except the secretary, is paid any salary or fee by the society, other than expenses necessarily *incurred while attending to the business of the society.*

The directors have power to make regulations fixing the duties of all officers, the procedure at all meetings of the board, or of the society, the conduct of the business of the society with its bankers, and generally in reference to all the conduct of the society's business. Each society adopts uniform regulations, unless in the opinion of the majority of the whole board variations are necessary to suit the circumstances of the particular society. Notice of such variations must be sent to the Provincial Secretary by the secretary. An annual meeting of the society is held once in every year, between the first day of January and the first day of March, of which due notice is given by the secretary by letters addressed to each subscriber and director. At such meeting reports are presented by the officers, showing fully the business done by the society during the last calendar year.

Objects.—The objects of rural credit societies are:—
(1) to procure short term loans for members, for pay-

ing the cost of farming operations of all kinds and increasing the production of farm products, and particularly for the following purposes:—The purchase of seed, feed and other supplies; the purchase of implements and machinery; the purchase of cows, horses, sheep, pigs and other animals; the payment of the cost of carrying on any farming, ranching, dairying or other like operations; the payment of the cost of preparing land for cultivation; (2) to act as agents for the members in purchasing supplies and selling products, and in placing fire, hail and life insurance; (3) to promote co-operation for the improvement of conditions of farm life, and to extend its application to all residents of the districts. It is the duty of the directors to arrange with a chartered bank or banks, or with private parties, for loans, and to make all arrangements incidental thereto.

Investment of Funds.—The capital stock of a society must be invested in Government bonds (or bonds guaranteed by the Government), municipal or school bonds. All income derived therefrom is paid to the society. The society may dispose of any such bonds and re-invest the proceeds thereof in similar securities, or use the proceeds in the payment of any liabilities of the society, and it may pledge any such bonds as security for the payment of any liability for which it is or may become liable under the Act.

Application of Moneys.—The moneys received by any society from the share of interest received by it must be applied:—in payment of the necessary expenses of the society, or in payment of a dividend on the paid-up stock of not more than six per cent. per

annum, or in accumulating a reserve which may, in the discretion of the directors, be invested in the same manner as the capital stock. In the event of dissolution of any society any accumulated reserve is divided amongst the subscribers in proportion to the amount of the capital stock respectively held by them.

Information as to Advances.—Any person dealing with a borrower or a person believed to be a borrower from any society, and proposing to sell goods on credit or to lend money or make advances to such person, may apply to the secretary of the society for information as to the advances which have been made or authorized to such person and the purposes thereof, and the secretary, on being satisfied of the bona fides of such request, must furnish any information shown on the records of the society at the date of such request.

Directors' Meetings to Consider Loan Application.—The board of directors holds one or more meetings in each of the months of March and April, in every year, for the consideration of applications for loans, and holds such further meetings as may be required from time to time on the call of the president or on the written request of any three members of the board delivered to the secretary. The board also holds one or more meetings in the month of January, in each year, for the consideration of loans, if any, on which the full amount has not been paid prior to the thirty-first day of December preceding. All municipal or provincial buildings, or school buildings, may be used by any society for any meeting of its board or members, or for any meetings held under its auspices. No

charge can be made for the use of any such buildings for any such purpose, other than for necessary expenditures occasioned by such meetings.

Application for Loans.—Any member of a society desiring a loan makes an application, stating the amount required and the purpose for which it is to be used, and agreeing to repay the said loan at a date not later than the thirty-first day of December next thereafter, together with the interest at the rates fixed. All applications are delivered to the secretary and by him presented to the directors at the next following meeting, and the directors determine whether such application shall be approved. They may approve the same in part or on such terms as they may deem proper, and may demand such security from the applicant as they may think necessary. In the event of the application being approved in part only or being varied, a new application must be signed by the applicant in accordance with the approval, and the former application cancelled. When an application has been finally approved by the directors such approval is certified on the application and signed by the secretary and by the president or vice-president, and a record of all applications approved is entered in the minutes of the society. One duplicate or copy is delivered to the applicant, and another duplicate or copy retained by the society. In the event of the absence from any cause of any such officers the board may, by resolution, authorize any other officer to sign the approval in his stead. Whenever an application has been duly made and approved, the secretary delivers the original to such bank or person as the directors have authorized,

and settles the times and conditions at and upon which the amount shall be advanced, and (upon the same being agreed to by the lender) advises the applicant and enters a record in the books of the society. Before any moneys are advanced, the lender or society may require the borrower to sign a note or notes for the amount of the moneys to be advanced, and the society endorses such note or notes, but the terms of such notes cannot vary in any way from the terms of the approved application or from the provisions of the Act. The secretary is authorized to endorse such notes on behalf of the society. The Lieutenant-Governor-in-Council may, on behalf of the Province of Manitoba, lend money to any such society for the purpose of assisting it to carry on its business on such terms as to interest, repayment and security as may be agreed on, provided that the total of all such loans does not exceed the sum of \$60,000 for any one society. For the purpose of providing funds to make such loans, the Lieutenant-Governor-in-Council may borrow money by the issue of Treasury bills or bonds, stocks, or debentures not exceeding in the whole until further authorized the sum of three million dollars (\$3,000,000).

Rate of Interest.—The rate of interest payable by a borrower on a loan guaranteed by a society cannot exceed seven per cent. per annum. Out of the interest paid one-seventh is paid to the society for the purposes hereinafter mentioned, which share of interest is paid by the lender to the society as soon as the loan and all interest thereon has been received by him or it, and the security given to the lender is not surrendered until all such interest charges have been paid.

Renewing the Loan.—In the event of a borrower not being able to repay the amount of his loan on or before the thirty-first day of December, for reasons which appear to the directors to be justifiable, or on account of the loan having been granted for purposes not productive within one year, the directors may, on the application of the borrower, grant a renewal of any portion of the loan until such further time as may be agreed, but not later than one year next after the maturity of the previous loan. The application for such renewal loan is in the same form as for any original loan, except that it shall be stamped with the word "Renewal," and is kept distinct from any new application made by the same borrower. In all other respects the provisions of the Act relating to applications and the endorsements, and the rights and liabilities arising thereunder, are applicable to such renewals.

Recovering the Loan.—In the event of a borrower failing to pay the amount of his loan, or renew the same within one month from the due date, the lender may demand payment of the amount owing, with interest thereon to date of payment, and the society must within fifteen days from the receipt of such demand, provide for the payment of such amount. Upon payment the lender delivers to the society all securities held by him for the said loan or any part thereof, and the society is entitled to recover the amount so paid from the borrower by any means authorized by the Act, or by any other statute or law applicable thereto.

Bank Returns.—Every bank from which loans are obtained by any society under the Act forwards to the secretary of rural credit societies a monthly return

showing each loan made by it under the Act, and the amount advanced at the date of such return, and also showing all loans, if any, then past due.

Security for Loan.—All animals, machinery, goods or personal property of any kind purchased or partly purchased with the proceeds of a loan, or for the purchase of which a loan has been granted, together with the offspring of such animals and the crops or other products grown on any lands for the working of which such loan has been made or used, are subject to a lien or charge for the amount of the loan in favour of the society approving, without any further writing or act by the borrower, and none of the said property can be sold or removed from the premises of the borrower, or beyond the limits of the district in which the society is authorized to carry on business during the currency of such loan, without the consent of the secretary. All proceeds of the sale of any of the said property must, without delay, be paid to the lender on account of the said loan. Any person who removes, sells or disposes of the chattels charged, or any of them, or fails to account for and pay over moneys received from the sale thereof, as provided, is liable on summary conviction before a justice of the peace or police magistrate having jurisdiction, to a fine of not less than \$50.00, nor more than \$100.00 and costs, and in default of payment to imprisonment for a period not exceeding six months, nor less than three months.³

Collateral Security.—The directors may, before granting any application, require such further security

³ Manitoba, Annual Statutes, 1920, ch 109, sec. 5.

as they may think necessary, and upon such terms and conditions as they may approve of. The directors are hereby authorized to take in the name of the society any form of security and to exercise all rights thereunder, and may assign such security with all rights appertaining thereto to the lender. The powers of the directors as to taking security in the name of the society extends to and includes the power to take by way of additional security, mortgages on real or personal property or assignments of agreements of sale thereof, and to exercise all rights conferred by such securities. In the event of any loan being made by the Lieutenant-Governor-in-Council on behalf of the Province of Manitoba to any society as provided in this Act, the said province can exercise all the rights granted by the Act to a bank or other lender.

Lien.—The society has a lien or charge on all the personal property of the borrower (including all personal property acquired after the loan has been made or after the certificate has been filed),⁴ for securing repayment of any such loan, upon filing a certificate of the secretary of the society in the office of the clerk of the County Court judicial division in which is situated the land upon which the borrower carries on the operations for which the loan was made to him, showing the amount of the loan and the name and address of the borrower. The registration in the office of the County Court clerk of a subsequent certificate signed by the secretary of the society showing repayment of such loan shall operate as a discharge of such lien. The County Court clerk registers the certificate and discharge without the payment of any fee.

⁴ Manitoba, Annual Statutes, 1920, ch. 109, sec. 6.

Proceedings on Default.—In case default is made in the payment of any loan or of the interest or any part thereof, or in case the borrower attempts to sell or dispose of, or in any way part with the possession of any animals, machinery, crops or personal property upon which the society has a lien or charge, or to remove the same or any part thereof out of the district in which the society is authorized to carry on business (whether the said loan is due or not), or suffers or permits the same to be seized or taken in execution without the consent of the society or its secretary, to such sale, removal or disposal, first had and obtained in writing, or in case the borrower absconds or attempts to abscond from or leave the Province of Manitoba, or in case the directors of the society feel that the said loan is unsafe or insecure, or deem the said property in danger of being sold or removed, or upon the issue of any writ or summons for debt or damages against the borrower, or in case the borrower fails to pay the rent arising out of the land and premises mentioned in the application for the loan at any time during the currency of the loan, or any renewal thereof, six days at least before the same shall become due, or upon the issue of any warrant of distress for the said rent, or on the failure to insure and keep insured the said property to the extent agreed upon with the society, or upon the abandonment of the said property or any part thereof, or upon the borrower selling or abandoning the said lands, or upon the making of an assignment for the benefit of creditors, or upon the arrest of the borrower on any criminal charge, or the issue of any writ or attachment against the borrower, or in case default

is made in the performance of any undertaking given by the borrower in the application for loan or set out in the terms upon which such loan is granted, or in case the borrower has made a false or untrue statement in his application for loan, and so often as the said events or any of them may happen; then and in any and every such case the full amount of principal, interest and any other sum which may be added to the same by virtue of the provisions hereof, *forthwith becomes due and payable*, and it is lawful for the society or its agent or servant, with such assistance as may be required at any time during the day, to enter into and upon any lands, tenements, houses and premises, wheresoever and whatsoever upon which the said property or any part thereof may be, and to take possession of all property of any description upon which the society has a lien or charge under the terms of the Act, and to remove the same, and to sell the same at public auction or by private sale, as to the society or its officers may seem meet, and free from any claim of exemption by the borrower or anyone claiming under him, and from and out of the proceeds of such sale, in the first place, to pay and reimburse the society all such sum or sums of money as may then be due, owing and accruing due under the terms of the loan, and all costs and expenses as may have been incurred by the society in consequence of the default, neglect or failure of the borrower in payment of the said loan, with interest thereon, and in the next place to pay unto the borrower or other person entitled all such surplus as may remain after such sale and after payment of all such sums and interest thereon.⁵

⁵ Manitoba, Annual Statutes, 1920, ch. 109, sec. 7

Right to Enter Borrower's Premises.—The bank or person making a loan, or a representative, and the society endorsing a loan, or any officer or director thereof, has the right at any time during the currency of the loan to enter on the premises of the borrower and inquire into the manner in which the borrower is carrying on such farming or other operations as are required for the proper development of the purposes for which the loan was granted, or to ascertain that the terms of the loan are being carried out, or that the security for the loan is in good condition and on the premises of the borrower in the district.

Order for Possession.—In the event of the death, insolvency or insanity of the borrower, or of his deserting the premises, or of his failure to carry out the purposes of the loan, the directors of the society, or any three thereof, may apply to any County Court judge, or police magistrate, for an order placing the society, or any person named by it, in possession of all goods, animals or property covered by any security given under the Act, and of any or all other property, real or personal, of the borrower lying within the municipality which may be required for the proper care, use or preservation of the security, and such judge or police magistrate has power, after such notice to the borrower as he may think reasonable, or without notice, to make an order for the purposes aforesaid, and to authorize such persons as he may name to carry out the provisions of such order.

Selling Stock or Crops.—No person who has obtained a loan (any part of which remains unpaid) can dispose of or attempt to dispose of his stock, chattels or

crops otherwise than in the ordinary course of business. Any such sale in bulk is subject to all the provisions of *The Bulk Sales Act*.

Personal Liability.—The borrower is personally liable for the payment of the amount of any loan granted under the Act, or any balance, and for all interest charges and costs of collection thereof. But it is not incumbent on any person or bank making a loan to see to the due application of the moneys loaned, and the misapplication or non-application of such moneys shall not affect the security for the loan.

STRAY ANIMALS.

I. Alberta.

[Extra-Municipal Areas.]

Generally.—The law respecting estray animals in this province has recently been revised. The old ordinance has been superseded so far as regards *extra-municipal areas*, by the new Domestic Animals Act, 1920.¹ The old law remains in force in *all other parts of the province*, until a proclamation is issued by the Lieutenant-Governor-in-Council, placing the new law in force throughout the province. The provisions here given are those which apply to *extra-municipal areas* only, and the reader is advised to consult the officials of the local municipality for the law in his territory, if he should reside in a municipality of any kind. The law regarding stray animals is peculiar in some districts, and the reader is advised to consult local authorities in any event for the exact state of the law in his district. It must be noted that the provisions given be-

¹ Alberta, 1920, ch. 33, sec. 2 (g).

low do not apply to entire animals. An estray animal is defined as being any domestic animal, i.e., horse, mule, ass, neat cattle, sheep, pig, goat or goose, found on the premises of any person other than its owner.² An entire animal means any stallion over the age of 15 months, or bull or jack over the age of nine months, or ram or he-goat, or boar over the age of five months.³

Duties of Finder and Brand Reader.—Any person who finds upon his premises any estray which cannot be driven away from such premises, must proceed as follows:—(1) If the owner of such estray is *known* to him the finder must at once notify him by registered mail, and such owner, within three days after being so notified, must remove the estray from the said premises; (2) if the owner of such estray is *unknown* to the finder or if the estray is not removed as provided above, the finder must at once, through the mail, notify the nearest available brand reader who then examines such estray and prepares an accurate description of the animal and the brands, if any, and forwards without delay a notice containing such description, together with the name, location and post office address of the finder, to the Department of Agriculture for insertion in two successive issues of *The Gazette*. The brand reader, in addition (if the estray bears a brand), must within three days forward a copy of the notice to the Recorder of Brands at Medicine Hat, who at once advises the brand reader whether the brand described by him is a recorded brand or not. If the same is a recorded brand he apprises the brand reader of the name of the owner, and also at once informs the owner by regis-

² Alberta, 1920, ch. 33, sec. 49.

³ Alberta, 1920, ch. 33, sec. 2 (f).

tered mail that an estray bearing his brand has been reported to him, at the same time giving the name, location and post office address of the finder, and a description of the estray. Upon the preparation by the brand reader of the notice and description, the finder must have a copy of the same inserted once a week for two successive weeks in the nearest newspaper, and the amount actually expended is repaid to the finder by the owner when the estray is claimed, or, if it is not claimed, then by the justice after the sale of the estray, upon production of the proof of the expenditure.

Reading the Brand.—Brand readers must give an accurate description of an animal, and for such is entitled in each case to a fee of \$2 per head up to three head on one premises, and if there are more than three head \$1 for each additional animal and mileage. These fees are paid to him by the finder, who is reimbursed by the owner when the animal or animals are claimed, or, if not claimed, by the justice out of the proceeds of the sale of such animal or animals.

Owner's Duties.—The owner of any estray is entitled to recover the same from any person in whose possession it may be, upon tender of the amount of the expenses incurred up to the time of such tender from the day on which notice of the finding of such animal was mailed to such owner, if known, or from the day the notice was mailed to the brand reader if such owner is not known. Such expenses consist of the sums prescribed by law and no other. If it is made to appear in any proceedings taken for the recovery of any such estray that tender was made to the finder by or on behalf

of the owner of the estray of the amount of the expenses to which the said finder is lawfully entitled and that such tender was refused, the finder thereby forfeits all claim to such expenses. Before delivering the animal to the person claiming to be the owner thereof the finder may, however, require from him a statutory declaration stating that he is the owner of the said animal. Neglect to remove the animal after proper notice renders the owner liable to \$1 a day after the first three days. -

Justice's Duties.—In case the owner of the animal and the finder are unable to agree as to the amount of expenses, then at any time within three days both parties appear before the nearest accessible justice to the place where the animal was found, or such other justice as the parties may select by mutual agreement. Upon hearing the statements of the parties upon oath or otherwise as the justice deems advisable, the justice determines the amount of the expenses payable in the matter. The determination of the justice is final and conclusive as between the parties. The justice is entitled to a fee of \$1 for determining such expenses, and it is paid by the party against whose contention the justice determines, or otherwise as the justice may decide. In default of the payment by the owner of the expenses so determined and the justice's fees within a time to be stated by the justice, the justice can sell the animal or cause it to be sold as provided by law.

Application for Sale of Estray.—If the estray is not claimed within twenty days after the first publication of the notice in *The Gazette* the finder can make application to a justice to have the animal sold in accord-

ance with the law. The application is supported by information under oath as follows:

To A. B.,

A Justice of the Peace in and for the Province of Alberta.

The applicant avers that on the.....day of 19....., he found a (description of animal found) on his premises;

That he is unable to drive such animal away from his premises;

That he has given the notices required by Part III of The Domestic Animals Act relating to stray animals;

That the notice was published in the issue of the Gazette dated (date of first issue containing notice);

That twenty days have elapsed since the date of such publication without the said animal having been released by the payment to the applicant of the moneys he is entitled to be paid under the provisions of the said Act;

That the applicant prays that the said animal may be sold at a time not earlier than the eighth day after the date of this notice.

.....
(Signature of Finder).

Selling the Estray.—Before proceeding with such sale the justice must examine the animal and the brands, if any; and if satisfied that the notice contains an accurate and sufficient description of the animal, and (in the case of a branded animal whose owner is unknown) has been sent to the Recorder of Brands at Medicine Hat, he proceeds to sell the animal; but if not so satisfied he directs the brand reader to forward a proper notice to the department and, if necessary, to the Recorder of Brands. No fees are payable to the brand reader in respect of any notice which does not contain an accurate and sufficient description of the animal. Where it is necessary for the justice to cause a readvertising of a stray animal, the brand reader must pay to the finder a sum equal to that which the keep of the animal so advertised would amount to for the extra period the finder has, owing to the negligence of the brand reader, to keep the same.

Fees.—The following and no other fees are payable:

(1) Finder.

For advertising in a newspaper, the amount actually expended.

For mileage to and from place of sale, twenty-five cents per mile for each mile necessarily travelled not exceeding thirty miles.

For the care and sustenance of every head of swine twenty-five cents per day from the date of mailing the notification to the owner or to the brand reader.

For the care and sustenance of any goose, goat or sheep during the period from the fifteenth day of November to the fifteenth day of April, five cents per day from the date of mailing the notification to the owner or to the brand reader, but not exceeding \$2.

For the care and sustenance of any horse or head of cattle (not being an entire animal) during the period from the fifteenth day of May to the first day of November, five cents per day, and twenty-five cents per day for the balance of the year, from the date of mailing the notice to the owner or to the brand reader.

(2) Justice.

For preparing application and administering oath, \$1.

(3) Brand Reader.

For postage, the amount actually and necessarily expended.

For preparing and forwarding notice to the Department and Recorder of Brands, \$2.

For mileage, 10 cents for each mile necessarily travelled.

Offences and Penalties.—If any person commits any of the following offences he is on summary conviction by a justice of the peace liable to a penalty not exceeding \$100; that is to say, if he (1) takes, rides, or drives any animal that is being held as an estray; (2) when taking his own animal from pasture, without the owner's consent, takes or drives off the animal of any other person grazing with his own; (3) causes or allows any horse or head of cattle belonging to another party (without consent of party) to be driven with his band or herd more than five miles from its grazing place; (if the owner of any animal, in taking it from pasture, finds it necessary to drive other animals a greater distance than five miles before he can separate his own animal from among them he is not liable to the penalties imposed by this section if he at once drives back such animals to the place from which he drove them); (4) being the finder, fails to make prompt application to have an animal that has been advertised sold; (5) being the finder, demands or receives any sum for the keep of any animal or any fee or charge not authorized by this part; (6) being the finder, neglects promptly to notify the owner if such owner is known; or if such owner, after due notification, does not take away his animal, or, if such owner is not known, neglects promptly to notify a brand reader; (7) being the finder, neglects to provide sustenance for any stray animal while such animal is to his knowledge upon his premises; (8) being the owner, rescues, or attempts or incites any person to rescue any animal without payment of the fees due for keep and other expenses incurred by the finder on account of such animal; (9) being the

brand reader, fails, where it is his duty to do so, to read the brand on any animal, within a reasonable time or promptly to inform the finder of his inability to do so; (10) being the brand reader, neglects, after being notified by the finder to forward the notice to the department; (11) being the brand reader, is negligent or careless in reading or deciphering a brand or gives a wrong description of an animal.

II. Saskatchewan.

[Unorganized Portions.]

Generally.—The law respecting stray animals in this province has recently been revised and consolidated by *The Stray Animals Act, 1920*.¹ This law makes distinctions between organized and unorganized territory. In organized territory, such as rural municipalities, the Act allows the passing of a local by-law to regulate the running at large of animals within the municipalities.² It also provides for the formation of herd districts in unorganized areas.³ There is also special provisions for the distraining and impounding of animals where there are pounds.⁴ Other estray animals, in unorganized portions of the province not included in a herd district, or in herd districts or other organized portions not having accessible pounds, are dealt with specially, as hereinafter mentioned. The reader must, therefore, carefully distinguish between organized and unorganized portions. In any event, he should ascertain what the particular character of his district is and how the law stands in that particular district.

¹ Saskatchewan, 1919-1920, ch. 47.

² Saskatchewan, 1919-1920, ch. 47, Part I.

³ Saskatchewan, 1919-1920, ch. 47, Part II.

⁴ Saskatchewan, 1919-1920, ch. 47, Parts III and IV.

Animals.—Animals include cattle, horses, sheep, goats or swine, and a horse includes an ass or mule. An estray animal means an animal which while lawfully running at large has strayed from its accustomed forage ground or has joined a band, herd or flock other than that of its owner from which it cannot be driven away, or an animal which has broken into premises enclosed by a lawful fence.⁵

Where Owner Is Known.—A person who has on his premises or in his band, herd or flock an estray which cannot be driven away, the owner being known to him, must at once notify such owner by registered letter, and such owner must within ten days from the date of mailing the letter remove his animal from such premises, band, herd or flock.⁶

Where Owner Is Not Known or Animal Is Not Removed.—A person who has on his premises or in his band, herd or flock an estray which cannot be driven away, the owner being unknown to him, or an animal which has not been removed within ten days after notification, must at once forward to the King's Printer for the province a notice to the effect that such animal is on his premises or in his band, herd or flock, as the case may be. The notice must contain the name, location and post office address of the finder and a full description of the animal, with all its marks (natural and artificial), colour, and probable age, and any information which may lead to its identification. This notice is published in *The Saskatchewan Gazette*. In addition to notice in *The Saskatchewan Gazette* the finder can cause a copy of the notice to be inserted in two suc-

⁵ Saskatchewan, 1919, 1920, ch. 47, sec. 2.

⁶ Saskatchewan, 1919-1920, ch. 47, sec. 41.

cessive weekly issues of the nearest newspaper, the cost of which (not exceeding the sum of \$1) will be reimbursed by the owner when the animal is claimed, or by the justice after the sale of the animal upon proof of such expenditure having been made. The finder must provide the estray with sustenance, while on his premises, and with such shelter as is provided for his own animals of similar age and class.

Tender of Expenses.—The owner of an estray is entitled to recover it from the person in whose possession it may be, upon tender of the amount of the expenses incurred by such person to the time of such tender from the date on which the notice of the finding of the animal was given, together with payment for any damage done by such animal. Such expenses consist of the sums prescribed by law and no other; and if it is made to appear in any proceedings taken for the recovery of an estray that tender was made by the owner of the amount of the lawful expenses, and damages, if any, to which the finder is lawfully entitled and the same have been refused by the finder, then, in addition to any penalty to which he may be liable to, he forfeits all right to such expenses. However, before delivering an animal to a person claiming ownership the finder may require from him a statutory declaration of ownership.

Settlement of Disputes as to Expenses.—In case the owner and the finder of an animal are unable to agree as to the amount of expenses or damages a justice may upon the complaint under oath of either party, summon the party complained against to appear before him at a reasonable time stated in the summons. At the time stated the justice inquires into the matter, whether the

person complained against appears or not, and determines the amount of the expenses or damages, if any, payable, and the time of payment, and such determination is final and conclusive between the parties. The justice is entitled to a fee of \$3 for determining such expenses, and damages, if any. The fee is paid by the party against whose contention the justice determines. In default of payment of the expenses, damages, if any, and the justice's fee, within the time ordered by him, the justice must for at least eight days prior to the sale of such animal cause notice of the sale to be posted in the nearest post office, and in at least two other conspicuous places in the locality. On the date fixed by him the justice causes such animal to be sold by public auction by a person authorized by him in writing, and out of the proceeds of sale pays the expenses of sale, advertising, his own fees, and the finder's or captor's lawful charges, and hands over the balance to the owner.

When Animal May Be Sold.—The finder of an estray not claimed within twenty days after the publication of the notice provided for can forthwith make an application for sale, verified under oath, to a justice, who may proceed to sell the animal in the manner provided by the Act. The following form of application is used:

To A. B., a justice of the peace in and for Saskatchewan.

The applicant declares that on the _____ day of _____, 19____ (naming the date of capture), he found (described animal found) on his premises (or in his band, herd or flock, as the case may be);

That such animal is a stallion or bull unlawfully running at large, or that he is unable to drive such animal (if other than a stallion or bull) away from his premises or band (herd or flock, as the case may be);

That he has given the notices required by section 42 of Part V of the Stray Animals Act;

That the notice was published in The Saskatchewan Gazette dated (date of issue of Gazette containing notice);

That twenty days have elapsed since the publication of the notice without payment to the applicant of the moneys he is entitled to for release of the animal under the provisions of the said Act;

The applicant therefore prays that the said animal may be sold at a time not earlier than the eighth day after the date of this notice.

Signature of finder.

I (name of finder), the applicant above named, make oath and say that the facts set forth in the above application are true in substance and in fact.

Signature of finder.

Sworn before me at
this _____ day
of _____, 19 ____
A. B.,
J. P.

Advertising and Sale.—Before proceeding with the sale the justice examines the animal and the brands, if any, and *The Gazette* notice, and if satisfied that the notice contains an accurate and sufficient description of the animal proceeds to sell the same. If not so satisfied the justice directs the finder to insert in *The Saskatchewan Gazette* a notice containing an accurate and sufficient description of the animal. The finder is not entitled to compensation for anything done prior to the mailing to *The Gazette* of the last mentioned notice. On the date fixed by him the justice causes such animal to be sold by public auction by a person authorized by him in writing, and out of the proceeds of sale pays the expenses of sale, advertising, his own fees, and the finder's or captor's lawful charges, and hands over the balance to the minister, if the finder resides in an unorganized area, or to the treasurer if the finder resides in a municipality. The justice immediately after the sale sends to the minister or to the treasurer, as the case may be, a return of the sale. All moneys paid to the minister or the treasurer are paid over to the owner of the animal sold provided he furnishes satisfactory evidence of ownership along with the application. If not

claimed within twelve months next following the date of the sale such moneys fall into and form part of the consolidated fund of the province or the funds of the municipality, as the case may be.

Fees.—The following, and no other, fees are payable for the capture of an estray. The fees are calculated from the date of mailing notice to the owner or to *The Gazette*:

(1) Finder.

For capturing any stallion over one year old, or any bull over eight months old, \$10.

For advertising in a newspaper, the amount actually expended, not exceeding \$1.

For mileage to and from the place of sale, ten cents per mile for each mile necessarily travelled, but not exceeding \$3.

For postage, the amount actually and necessarily expended.

(2) Justice.

For preparing and posting notices of sale, \$1.

For preparing application and administering oath, \$1.

For mileage to and from the place of sale, ten cents per mile for each mile necessarily travelled, but not exceeding \$3.

For postage and exchange or commission on transmission of proceeds of sale, the amount actually expended.

Two and one-half per centum of the amount realized by the sale.

Offences and Penalties.—A person who (1) causes or allows any horse or head of cattle belonging to another

party, without the consent of such party, to be driven with his band or herd more than two miles from its grazing place; (2) demands any sum for keep of any animal or any fee or charge not authorized; or (3) neglects to provide sustenance and shelter for an estray while such animal is to his knowledge upon his premises or in his band, herd or flock; or (4) rescues, incites or attempts to rescue any animal without payment of the fees due for keep and other expenses incurred by the finder on account of such animal; or (5) rides, drives or otherwise works or uses for his own pleasure or benefit a horse or ox captured or detained under the Act; or (6) being the finder of an estray neglects to comply with the provisions as to sending the notice to the King's Printer, or neglects to give the location on the animal of the brand or brands, if any, or neglects to furnish as accurate a description of the brand or brands, if any, as is possible; or (7) being the finder purchases in person or by his agent or has any interest of any kind in any animals sold under the provisions of the Act, is guilty of an offence and liable on summary conviction thereof before a justice to a penalty not exceeding \$100. If the owner of an animal in taking it from pasture finds it necessary to drive other animals a greater distance than two miles before he can separate his own animal from among them he is not liable to the penalties imposed by this section if he at once drives back such animals to the place from which he drove them. The owner of an estray who neglects to remove the same from premises where it has been found within ten days after the date of mailing of the registered notice provided for is liable upon summary con-

viction to a penalty not exceeding \$1 per head for each day during which such neglect continues after the expiration of the ten days.

III. Manitoba.

[Unorganized Territory.]

Generally.—The provisions following respecting stray animals are only applicable in *unorganized* territory, and consequently do not apply to the province at large. The reader should be careful to note this fact, and if he resides in a territory that is at all well settled he should ascertain from the local authorities just what the law is in that district with regard to stray animals. It is obvious that the law respecting animals at large cannot be made altogether uniform, and consequently the laws differ in various localities. This is due to the different classes of farming or ranching operations which take place in a single province.

Animals.—An estray animal means any animal found on the premises or in the herd, band or flock of any person other than its owner. Cattle means any bull, cow, ox, heifer, steer, or calf. Horse means any horse, mare, gelding, colt, filly, ass, or mule. Sheep means any ram, ewe, wether, or lamb. "Animal" includes any head of "cattle," "horse," "sheep," or "swine." Animals are said to run at large when they are allowed to be at large without being under the control of the owner, either by being in direct or continuous charge of a herder or by confinement within any building or other enclosure or a fence, whether the same be lawful or not.

Duties of Finder.—Any person who finds he has on his premises, *not situate in any municipality* in this

province, or in his band, herd or flock, any estray animal, the owner of which is known to him, must at once notify such owner through the mail, and such owner within ten days after being so notified shall remove his animal from such premises, band, herd or flock. If the owner is unknown to him (or if known does not remove the animal from the said premises, band, herd or flock within ten days after such owner has been notified) the finder must at once forward to the department a notice to the effect that such animal is on his premises or in his band, herd or flock (as the case may be). The notice must contain the name, location and post office address of the finder and a full description of the animal, with all its marks (natural or artificial), colour and probable age, with any other remark which may lead to its identification. The notice must be published for two consecutive insertions in *The Manitoba Gazette* and a copy of each issue containing such notice forwarded to every post office within twenty-five miles of the premises of the finder, and a separate copy forwarded with every copy of the said *Gazette*.

Owner's Duties.—The owner of such estray animal is entitled to recover the same from any person in whose possession it may be upon tender of the amount of the expenses incurred up to the time of such tender from the day on which notice was given of the finding of the animal. Such expenses consist of the sums prescribed by the Act and no other; and if it is made to appear in any proceedings taken for the recovery of any such estray animal that tender was made to the finder by or on behalf of the owner of the animal of the amount of the expenses to which the said finder is lawfully en-

titled, and that such tender was refused, the finder thereby forfeits all claim to such expenses, in addition to any other penalty to which he may be liable. Before delivering the animal to the person claiming to be the owner thereof the finder, however, may require from him a statutory declaration stating that he is the owner of the said animal.

Justice's Duties.—If the owner of such animal and the finder are unable to agree as to the amount of such expenses, both parties must, within ten days, appear before the nearest accessible justice to the place where the animal was found, or such other justice as the parties may mutually agree to appear before; and, upon hearing the statements of the parties, upon oath or otherwise as to the justice seems advisable, such justice can determine the amount of the expenses payable in the matter. The determination of the justice is final and conclusive between the parties. The justice is entitled to a fee of one dollar for determining such expenses. This is paid by the party against whose contention the justice determines.

Selling the Estray.—In default of the payment of the expenses so determined, and the justice's fee as aforesaid, within a time to be stated by the justice, the justice sells or causes such animal to be sold by public auction, either by the nearest accessible poundkeeper or by any person authorized by him in writing to sell such animal, and the justice, out of the proceeds of such sale, first pays the expenses of sale and advertising and justice's fees and then the costs of keeping (if any are allowed) to the finder, and the balance to the owner (if known), otherwise to the minister. The jus-

tice immediately after the sale sends to the department a return of the sale.

Unclaimed Estrays.—If an estray animal is not claimed within three months after the date of the first publication of the notice, the finder, within sixty days thereafter, makes application to a justice, verified under oath or affirmation before the justice, and the justice proceeds to sell the animal. Before proceeding to such sale the said justice must examine the animal and the brands (if any), and the notice in *The Manitoba Gazette*, and if, on such examination, the justice is satisfied that such notice contains an accurate and sufficient description of the animal, he proceeds to sell the same, but if not so satisfied, he directs the finder to insert in *The Manitoba Gazette* a notice containing an accurate and sufficient description of the animal. The finder is not entitled to receive any compensation for anything done prior to the mailing to *The Manitoba Gazette* of the last mentioned notice. After the sale the justice makes a return to the department of the sale.

Return of Animal Sold.—The return of animal sold is as follows:

Information required by Department.	Details furnished by Justice.
Class of animal .....	.....
General description and brand (if any) .....	.....
Name and address of finder .....	.....
Date of capture .....	.....
Dates of Gazettes containing notices .....	.....
Date of sale.....	.....
Number of days' keep .....	.....
Total amount realized	\$.....
Commission on sale	\$.....
Justice's fees	\$.....
Keep	\$.....
Number of miles to sale .....	.....
Mileage, at 10 cents per mile	\$.....
Postage and exchange	\$.....
Amount sent to Department	\$.....
Date	J. P. Post office.

Fees.—The following fees are payable:

(1) Finder.

For the care and sustenance of every head of swine, ten cents per day from date of mailing of notice to the owner or to *The Manitoba Gazette*; for the care and sustenance of any sheep, head of cattle or horse during the period from the fifteenth day of November to the fifteenth day of April, five cents per day from the date of mailing of notice to the owner or to *The Manitoba Gazette*; but not exceeding two dollars for any sheep, or ten dollars for any head of cattle or horse.

For advertising in *The Manitoba Gazette*, the amount actually expended.

For mileage to and from place of sale, ten cents per mile for each mile necessarily travelled, but not exceeding thirty miles.

For postage, the amount actually and necessarily expended.

(2) Justice.

For preparing and posting notices of sale, one dollar.

For preparing application and administering oath, one dollar.

For postage and exchange or commission on transmission of proceeds of sale, the amount actually expended.

(3) Salesman.

Two and one-half per centum of the amount realized by the sale.

Offences and Penalties.—If any person, (1) demands or receives any sum for keep of any animals or any fee or charge not authorized by the Act; or (2) neglects to

provide sustenance for any estray animal while such animal is to his knowledge upon his premises or in his band, herd or flock; or (3) rescues, incites or attempts to rescue any animal without payment of the fees due for keep and other expenses incurred by the finder on account of such animal; or (4) rides, drives or otherwise works or uses for his own pleasure or benefit any estray horse or ox captured or detained under any of the provisions of the Act; or (5) neglects to promptly notify the owner, if such owner is known, or neglects to forward the notice to the department in cases where the owner is not known, or being known does not, after due notification, take away his animal, he is liable to a penalty not exceeding one hundred dollars.

WILLS.

Will.—A will or testament is a writing by which the owner of property declares how he wishes it to be distributed after his death. A codicil to a will is a supplement or addition made to a will by the testator. It may be written upon the same paper as the will or upon a separate sheet which may be attached to the will or left separate, although it is best to attach it. It should be executed in the same manner and with the same formalities as a will. When properly executed a codicil forms part of the will. There may be any number of codicils.

Form.—A will may be written on any writing material and in any language, but it is safer to have it written in English so as to avoid any errors in translation. It should be written legibly. Certain forms of words

are almost invariably used, and the wishes of the person making it should be expressed in very clear, plain and unambiguous terms. It is always advisable to have the form drawn by a lawyer so that this can be done right.

Persons.—A man making a will is called a testator, a woman a testatrix. A person dying without a will is intestate and in such case there is said to be intestacy. A person receiving money or goods is said to receive a legacy and is styled a legatee; one receiving land a devisee, and the gift of land is styled a devise.

Who May Make Wills.—All persons 21 years or over, of sound mind, may make a will. Those who cannot contract cannot make a will. A will made by a person in sound mind will not be made invalid by his later insanity.

To What Property Wills Apply.—All property, real and personal estate, i.e., lands, goods and chattels of which testator was possessed at death, can be disposed of by will.

When Will Takes Effect.—At whatever time a will is made it takes effect at death unless otherwise expressed.

Execution of Will.—A will must be in writing and be signed at the foot or end by the testator or by some other person in his presence and at his direction. If the testator cannot sign his name he may make his mark. The signature may be placed at, after or following or under or beside or opposite the end of the will, so long as it is apparent on the face of the will that the testator intended by his signature to give effect to the

document as his will; but the signature must be at the end of the will and no words or phrases or sentences following the signature will be given effect to. No seal necessary. The will must be dated. The will must be signed in the presence of two or more witnesses, both present at the same time, and such witnesses must sign their names in the presence of the testator and of each other. The address and occupation of each witness should be written after his signature. Witnesses should note carefully the mental and physical condition of the testator as proof of any attempt to take advantage of his weak, physical or mental state. He should clearly understand what he is doing. Creditors of the testator and executors are competent witnesses, but care should always be taken never to permit anyone who is to receive a gift or benefit under the will to act as a witness, as doing so prevents such witnesses or the husbands or wives thereof from receiving any gifts or benefits under the will. Alterations or obliterations in a will do not render it invalid, but if such alterations are to take effect they should be signed by the testator in the presence of two or more witnesses to show they were made before the will was signed, or the alterations may be referred to in a memorandum in another part of the will.

Revoking Will.—Marriage revokes a will unless the will was expressly made in contemplation of marriage. A will may also be revoked by another will or codicil, executed in the same way as a will, whether such later will expressly revokes the will or not. A codicil must expressly revoke. Later wills always revoke all former wills. The will may also be revoked by its being burned or torn or destroyed by the testator with the

intention of revoking it or by someone else in his presence and by his authority. No will once revoked can be revived except by re-executing it or by a codicil showing an intention to revive.

WOMEN'S RIGHTS.

General. — Generally speaking, a woman is either married, single, or divorced. The law, however, deals with only two of these classes. A single woman is known to the law as a "feme sole." A married woman is known to the law as a "feme covert." There was a marked distinction between these two classes until comparatively recent times. A single woman was in a better position, legally, than a married woman, because the latter was under the "cover," "protection" or "influence" of the husband, and so long as the husband lived she was said to be under "coverture." Now, however, there is no real practical difference between the two classes, but in order that new legislation should be read properly there is usually inserted, in the statutes dealing with women, a clause which says that a married woman shall have all the rights of a "feme sole." This will be found in the married women's property law. It really means that the fact of marriage is not taken into account in so far as earning a living, suing for debt, bringing actions, holding property, or making a will are concerned. All these things a woman can do in her own name as though she were not married at all, and her husband's name is left out of the proceedings altogether.

Dower. — A woman now has certain claims against the property of her husband, and in all the provinces

some protection is afforded to the widow in the nature of dower. (See DOWER.)

Lands and Goods.—A married woman may buy or sell real estate, may sue or be sued in respect of the same, as if she were a single woman. She does not need the consent of her husband. Any contracts for the sale of lands or goods will bind only her separate property, and judgments obtained against her will in no way affect the husband's property. They will, of course, bind any property she may possess in her own right.

Stocks, Bonds and Money.—A married woman is absolutely entitled to all stocks, bonds and other moneys which she obtains in her own right, whether the same came to her before or after marriage. She can have her own bank account and make deposits and withdrawals without the consent of her husband. In fact, she has, in respect of her own property, the same rights to protection as the law gives other persons, and this includes protection against her own husband.

Debts.—A married woman is liable in respect of all debts and liabilities of every kind incurred and contracts entered into by her and for damages for wrongs and injuries committed by her before marriage, and she may be sued for the same after marriage, her own separate property being liable, but her husband is liable for such debts and liabilities only if he receives property through his wife or the liability is one for damages for a wrong done by the wife, and then only to the extent of the property he receives. A married woman is liable for all debts, etc., and wrongs done after marriage to the extent of her private property. Her husband is liable for wrongs committed by her after mar-

riage, and if she acts as his agent he is liable for contracts entered into by her as such agent.

Insurance.—A married woman may effect insurance on her own life or upon that of her husband. If a man wishes insurance on his life to be payable to his wife and children, whether paid at his death or during his life, free from all claims of the husband's debts, he may either before or after marriage have it expressed in the policy that the insurance money is for the benefit only of wife and children, or wife only, or children only, or may after the policy is issued make a declaration identifying the policy and stating that the insurance moneys payable under the policy are payable for the benefit only of wife and children.

Wills.—A married woman can make a will in the same way as any other person. Married women may be appointed to act as executrix or administratrix of an estate.

WORKMEN'S COMPENSATION.

I. Alberta.

Generally.—*The Workmen's Compensation Act* of the Province of Alberta (Chapter 5 of the Statutes of Alberta, 1918), was assented to April 13th, 1918, and became effective August 1st of that year in respect to the industry of mining, and on January 1st, 1919, in respect to all other industries throughout the province excepting agriculture, ranching, railroading and the operation of retail stores. Amendments assented to by the 1919 session of the Legislature of Alberta became effective May 18th, 1919, and by these amendments

workmen employed in and about railroading were brought within the scope of the Act, with the exception of those, generally speaking, connected with the "running trades." Workmen thus engaged and enumerated in section sixty-nine (69) of the Act do not come within its scope, but are within the scope of *The Workmen's Compensation Act* of 1908. The 1920 amendments broadened the scope of the Act so as to include the travelling salesmen and clerical employees of all employers to whom the Act applies. Provisions were also made in these amendments whereby the board may, on the application of the employer, approved by the workmen, bring within the scope of the Act workmen employed in industries to which the Act does not now apply. The administration of the Act is vested in a board known as the Workmen's Compensation Board, composed of three members appointed by the Lieutenant-Governor-in-Council, with the head office in Edmonton and a branch office in Calgary.

Fund.—Provision is made in the Act for the creation of a fund by way of assessment on employers, out of which compensation is paid to workmen who are injured during the course of their employment and also to the dependents of workmen, where the accident results fatally. These assessments are levied on the amount of the wages earned by the workmen; they may be on a percentage of the wages earned or a specified sum. The minimum of any assessment levied under the Act is \$250. The rates of assessment are determined by the board on the basis of the hazard of the industry.

Disability.—No compensation is paid for the first three days of disability unless the workman is disabled

for a period of ten days or more, in which case he is paid from the first day of the accident.

Permanent Total Disability.—Ten dollars (\$10.00) per week, with a further sum of two dollars (\$2.00) for the first dependent, and one dollar (\$1.00) for each additional dependent, but not exceeding sixteen dollars (\$16.00) per week, is allowed.

Temporary Total Disability.—The same is allowed as permanent total disability, but payable only so long as the disability lasts.

Temporary Partial Disability.—Fifty-five per cent. of the difference between the average weekly earnings of the workman at the time of the accident and the average weekly earnings at which the workman is employed on resuming work, provided such earnings are less than ninety per cent. of the earnings he was receiving at the time of the accident, is allowed.

Permanent Partial Disability.—When the injury results in the loss of a member of the body compensation is paid on the basis of the schedule as set out under section 52 of the Act.

Fatal Accidents.—Where death results from the accident the compensation is as follows: Funeral expenses, one hundred dollars (\$100.00); thirty dollars (\$30.00) per month to the widow or invalid widower, with an additional payment of seven dollars and fifty cents (\$7.50) per month for each child under the age of sixteen (16) years, to be increased to ten dollars (\$10.00) upon the death of the widow or widower, but not exceeding in the whole sixty dollars (\$60.00) per month.

Medical Aid.—The Act provides for the creation of a medical aid fund by the deduction of two cents (2c.)

for each day or part of a day worked by all workmen coming under Schedule One (1) (mining), and one cent (1c.) per day for each day or part of a day worked by all workmen coming under Schedule Two (2) (all other industries). These deductions are made by the employer and remitted to the board. Out of this fund accounts incurred for medical attention required by injured workmen are paid. Workmen who come within the scope of the Act, and who are injured during the course of their employment, are thus entitled to medical attention from the board in addition to any compensation which may be payable. Where workmen have entered into a contract with a doctor to provide medical attention, and the contract has been approved by the board, no deduction from such workmen is required by the board on account of this medical aid fund, and the board does not defray the cost of medical attention in respect to the disabilities of such workmen. Contracts having the approval of the board generally provide for deductions to be made by the employer from such workmen to be paid to the contracting doctor. The medical attention, for which the board defrays the cost, is limited to disability resulting from an accident to the workman during the course of his employment. No cost in respect to disability resulting from ordinary illness is paid by the board. In a case where an injury happens to a workman during the course of his employment in an industry where no medical aid plan is in effect, any qualified physician, within a reasonable distance, may be called to render medical aid, and the cost of same will be paid by the board, according to the board's schedule of medical fees. Medical aid includes

ambulance charges, hospital treatment, nursings, drugs and dressings. The hospital fee is limited to public ward rates, unless otherwise authorized by the board. All hospital accounts for treatment as above should be rendered to the board, for which payment will be made in conformity with the schedule above mentioned. The attending doctor is required to forward a report to the board on a form for that purpose, within seven days after his first attendance on the injured workman, a further report on the first of each month, during the time the injured workman is disabled, and a final report within three days after the said workman is, in his opinion, able to resume work. Any special surgical operation or the supplying of any apparatus that would in the opinion of the board tend to alleviate the injury will be furnished the disabled workman.

Other Special Benefits.—These are :

(1) Employers or members of their families may receive compensation the same as workmen, provided their wages have been included in statements furnished the board and assessments have been paid thereon. The board in its discretion may, however, require any employer or member of his family to include his wages on his payroll statement and pay assessments on same.

(2) Principals are held liable to the board for the payment of assessments due by contractors and sub-contractors, and contractors are in the same way held liable for sub-contractors.

(3) As the provisions of this Act are in lieu of all statutory rights of workmen and as all compensation is paid by the board, employers are protected against any action at law as the result of injury sustained during

the course of his employment by any workman who comes within the scope of the Act.

(4) The board is given authority under the Act to call for all necessary reports, enforce payments of assessments, and penalize for violations of any provisions of the Act or regulations thereto. The board is also given exclusive jurisdiction to examine into, hear and determine all questions arising under the Act, and its decision is final.

(5) The compensation payable to the workman under the Act is continued throughout his disability, and is in addition to any medical aid furnished.

(6) In addition to the above cases of disability compensation is paid on certain industrial diseases mentioned in the Act.

(7) Provision is also made under the Act for such special surgical or medical treatment, including any apparatus usually provided to alleviate an injury as in the opinion of the board is required.

What the Employer Is Required to Do. — The employer is required to do the following:

(1) Employers whose industries or operations were within the scope of the Act during the year 1919, and who have not yet reported to the board, are required to forward the amount of their pay-roll for the year 1919.

(2) Employers whose industries or operations came within the scope of the Act since January 1st, 1920, are required to forward to the board an estimate of their pay-roll for the current calendar year.

(3) Pay assessments levied upon him, within fifteen (15) days from the date of notice of same.

(4) Keep posted in a conspicuous place where his

operations are carried on a certificate of payment of the last assessment issued on him by the board.

(5) Employers in Schedule 1 (mining) are required to deduct from the wages of each workman in their employ (including travelling salesmen and clerical employees) the sum of two cents (2c.) for each and every day or part of a day worked. Employers in Schedule 2 (which includes all industries other than mining) are required to make these deductions at the rate of one cent (1c.) for every day or part of a day worked. Deductions so made are to be remitted to the board on or before the twentieth day following the month for which they are made, accompanied by a form supplied for that purpose. These deductions are not to be made where the workmen in any industry have entered into a contract with a doctor to provide medical attention, and such contract has been approved by the board.

(6) Comply with the provisions of the Accident Prevention Regulations.

(7) Supply such first aid kit as is required under these regulations.

(8) Notify the board promptly of the happening of an accident to any of his workmen.

(9) Notify the board when the injured workman returns to work.

(10) Keep a proper account of all wages paid, so that these figures can be furnished to the board when required.

What the Workman Is Required to Do.—The workman is required to:

(1) Satisfy himself that the assessments levied on his employer have been paid.

(2) Acquaint himself with the Accident Prevention Regulations issued by the board, and carry out the provisions of same, in respect to the Accident Prevention Committee.

(3) Notify his employer or his representative, before leaving the premises, of the happening of any accident to himself.

(4) Notify a doctor immediately after the happening of the accident or have some one do so on his behalf.

(5) Make application for compensation at once, giving the full information required on the application form, which can be had from the board on request.

(6) Notify the board when payments of compensation are not promptly forthcoming.

II. Saskatchewan.

Act.—The Workmen's compensation law of this province is regulated by *The Workman's Compensation Act, 1910-11*¹. This Act applies only to employment by the principal on or in or about a *railway, factory, mine, quarry or engineering work*; or in or about any *building* which is either being constructed or repaired or being demolished. A "railway" means a road on which carriages run over metal rails, and shall include railways or tramways worked by the force and power of steam, electricity or of the atmosphere or by mechanical power, or any combination of them, whether owned or operated by a private person, public company or municipal corporation. A "factory" means a building, workshop or place where machinery driven by

¹ Saskatchewan, Annual Statutes, 1910-11, ch. 9, as amended by sec. 42 of chapter 46, 1912-13, by sec. 25 of chapter 67, 1913, by sec. 28 of chapter 43, 1915, by sec. 27 of chapter 37, 1916, by sec. 22 of chapter 34, 1917, and by chapter 45 of 1917 (second session).

steam, water or other mechanical power is used, and includes mills where manufactures of wood, flour, meal, pulp or other substances are being carried on; also smelters where metals are sorted, extracted or operated on; every laundry worked by steam, water or other mechanical power, and also includes any dock, wharf, quay, warehouse, shipbuilding yard where goods or materials are being stored, handled, transported or manufactured. A "mine" means any kind of mine, and includes every shaft in the course of being sunk and every level and inclined plane in the course of being driven for commencing or opening any mine or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings, both below ground and above ground, in and adjacent to a mine, and any such shaft, level and inclined plane of and belonging to the mine; and "engineering work" means any work of construction or alteration or repair of a railway, harbour, dock, canal, sewer or system of waterworks, and outside electrical construction of all kinds, including the alteration and repair of outside wires, cables, apparatus and appliances; and includes any other work for the construction, alteration or repair of which machinery driven by steam, water or other mechanical power is used. A "quarry" means an open cut from which rock is cut or taken.

Definitions.—Certain words are given special meanings, thus: "Principal" in the case of a railway means the person or company owning or operating the railway; in the case of a factory, mine or quarry means the owner, occupier or operator thereof; in the case of an

engineering work or other work specified in this Act means the person undertaking the construction, alteration, repair or demolition; "employer" includes any body of persons corporate or unincorporate, any municipality and the legal personal representative of a deceased employer, and where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship the latter shall for the purposes of this Act be deemed to be the employer of the workman while he is working for that other person; "court" or "district court" means the district court of the judicial district in which defendant resides or in which the accident out of which the matter arose occurred or any judge of such district court; "workman" means every person who is engaged in any employment to which this Act applies, whether by way of manual labour or otherwise, and whether his agreement is one of service or apprenticeship or otherwise, and is expressed or implied, is oral or in writing; but does not include any person employed otherwise than by way of manual labour whose remuneration exceeds \$1,800 a year; "dependents" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death or would but for the incapacity due to the accident have been so dependent, and where the workman being the parent or grandparent of an illegitimate child leaves such a child so dependent upon his earnings or being an illegitimate child leaves a parent or grandparent so dependent upon his earnings shall include such an illegitimate child and parent or grandparent

respectively; "member of a family" means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, adopted child, foster-parent.

Liability of Employers to Workman for Injuries. —

If in any employment *to which the compensation law applies* personal injury by accident arising out of and in the course of the employment is caused to a workman his employer is liable to pay compensation. The employer is not liable in respect of any injury which does not disable the workman for a period of at least one week from earning wages at the work at which he was employed.

Contracting Out of Compensation. — Any contract made whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment is void and of no effect.

Compensation Recoverable By Action in District Court. — The compensation may be recovered by action in the district court; and such employer is liable to pay such compensation whether or not (1) the injury or death resulted from the negligence of any person engaged in a common employment with the injured employee; or (2) the injury or death was caused by the negligence of the employer or of any person in his service or by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, building or premises connected with, intended for or used in the business of the employer; or (3) the workman contributed to or was the sole cause of the injury

or death by reason of his own negligence or misconduct; or (4) the injury or death resulted from a risk arising out of or incidental to the nature of the employment and which the workman expressly or impliedly assumed.

Action By Executor or Administrator.—If such injury results in death the action is brought by and in the name of the executor or administrator of the deceased workman for the benefit of the dependents of the deceased.

Action Brought Independently of the Act.—If within the time limited for bringing an action under the Compensation Act an action is brought to recover damages independently of the Act for injury caused by an accident and it is determined in such action that the injury is one for which the employer is not liable in such action but that he would have been liable to pay compensation the action will be dismissed. The judge, however, before whom such action is tried must, if the plaintiff so chooses, either immediately or in case of an unsuccessful appeal upon notice to the opposite party within thirty days after the disposition of such appeal, proceed to assess such compensation and to adjudge the same to the plaintiff. He is at liberty to deduct from such compensation all or part of the costs which in his judgment have been caused by the plaintiff bringing his action independently of the Act instead of proceeding under the compensation law and also, in cases where there has been an appeal, the costs of the appeal.

Subcontracting.—Where in any employment to which the compensation law applies the principal contracts with a "contractor" for the execution by or under

such contractor of any work in the way of the principal's trade or business the principal is liable to pay any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him. However, the principal is entitled to be indemnified by any other person who would have been liable independently of this section. This provision does not apply to any contract with any person for the execution by or under such person of any work which is merely ancillary or incidental to and is no part of or process in the trade or business carried on by such principal. Furthermore, this provision does not prevent a workman recovering compensation from the contractor instead of the principal.

Insolvency of Employer.—Where any employer has entered into a contract with any insurers in respect of any liability to any workmen, then in the event of the employer making an assignment for the benefit of or a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability is transferred to and vests in the workman, and upon any such transfer the insurers have the same rights and remedies and are subject to the same liabilities as if they were the employer, so, however, that the insurers are not under any greater liability to the workman than they would have been under to the employer. If the liability of the insurers to the workman is less than the liability of the employers to the workman the workman may prove for the balance in the assignment or liquida-

tion proceedings. There is included among the debts which under *The Assignments Act* or *The Companies Winding Up Act* are in the distribution of the property in the case of an assignment or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount not exceeding in any individual case five hundred dollars due in respect of any compensation the liability wherefor accrued before the date of the assignment or the date of the commencement of the winding up. This provision as to preference and priority does not apply where the assignor or the company being wound up has entered into a contract with insurers.

Limitation of Right of Action.—An action for compensation cannot be maintained unless it is commenced *within six months from the occurrence of the accident* causing the injury, or in case of death within six months from the time of death.

Alternate Remedies.—In the case of any injury for which compensation is payable the plaintiff may at his option proceed either under the compensation law against the employer or independently of the compensation law against the said employer or any other person from whom he may be entitled at law to recover damages, but the plaintiff is not at liberty to proceed both under and independently of the compensation law.

Remedies Against Both Employer and Stranger. — Where compensation is paid by an employer for an injury caused under circumstances creating a legal liability in some person other than the employer the employer is entitled to be indemnified by that other person.

Agriculture and Farm Work. — The compensation law does not apply to the employment of agriculture nor to any work performed or ~~on~~ machinery used on or about a farm or homestead for farm purposes or for the purposes of improving such farm or homestead, and, particularly, the compensation law does not apply to employments on a farm, such as threshing, cleaning, crushing, grinding or otherwise treating grain or sawing wood, posts, lumber or other wooden material or otherwise treating the same or the pressing of hay by any kind of machinery or motive power and whether such machinery or motive power be portable or stationary and whether the same be owned and operated by the farmer or farmers for whose purpose the same is being used or by any other farmer or other person for gain, profit or reward. Nor does it apply to the construction, repair or demolition of any farm building, windmill, derrick or other structure. Furthermore, it must be remembered that the word "factory" does not include any building, workshop, place or mill on a farm used for the purposes of such farm, and the words "mine" or "quarry" do not include any mine or quarry on a farm used for the purposes only of such farm; and the words "engineering work" do not include any ditch, drain, well or other excavation on a farm being constructed or repaired for the purposes of such farm or any adjoining farm or farms.

Accidents While Constructing Buildings on Farms. — Any person undertaking the construction, repair or demolition of *any building upon any farm* under contract with the owner or occupant of such farm is liable

to the workmen employed by him *for the compensation for injuries.*

Amount of Compensation.—The amount of compensation recoverable cannot exceed either such sum as is found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those three years in a like employment or the sum of \$1,800, whichever is larger. It cannot, in any case, exceed the sum of \$2,000.

Compensation Not Subject to Deduction.—The amount of compensation recoverable is not subject to any deduction or abatement by reason or on account or in respect of any matter or thing whatsoever save in respect of any sums of money which has been paid by the employer to the workman on account of the injury received by the workman. This sum or sums must be deducted from the amount of the said compensation.

Compensation Not to Be Charged.—Save in respect of indebtedness incurred for care and treatment in some hospital which receives aid from the general revenue of the province the amount of compensation recoverable cannot be assigned, charged or attached. It does not pass to any other person by operation of law nor can any claim be set off against the same.

Distribution of Compensation in Case of Death.—Where the action is brought on behalf of the dependents of a workman for an injury resulting in death the amount of the compensation awarded after deducting costs is divided among the said dependents in such shares as the court may determine.

Actions Tried By Judge Without a Jury.—Every action for recovery of compensation is tried by a judge

sitting without a jury, and an appeal may be taken from the decision of such judge to the supreme court sitting *en banc* upon any question of law or mixed question of law and fact.

Notice of Accidents.—It is the duty of every employer to forthwith after the happening of any accident whereby any workman in his employ has become wholly or partially incapacitated from work to *report such accident* to the secretary of the Bureau of Labour at Regina, together with all the details of the injury caused thereby, and unless such employer has complied with these requirements *within ten days after the happening of such accident* he is deemed guilty of an offence and liable upon summary conviction to a penalty not exceeding \$300 and costs, and to a further penalty not exceeding \$10 and costs for each day subsequent to the expiration of the said interval during which he neglects to make such report and in default of payment to imprisonment for a term not more than three months. No report nor any part thereof can be admitted in evidence or referred to at the trial of any action or in any judicial proceeding whatever.

Settlement of Claims by Consent of Court.—Where an action is maintainable under the compensation law in respect of an accident from which death has resulted and the executor or administrator of the person deceased, acting on behalf of the dependents of the said deceased, has agreed either before or after the commencement of an action on a settlement of said claim or action, either the said executor or administrator or the other person against whom such claim or action is made or brought may, on ten days' notice to the oppo-

site party and, in case any of such dependents are minors, to the official guardian, apply to a judge in chambers of the district court of the judicial district in which the defendant resides or in which the accident out of which the matter arose occurred, for an order confirming the said settlement. The judge may on such application confirm or disallow the said settlement, but if the said settlement is confirmed by him, the party against whom the said claim is made or action brought is discharged from all further claims thereunder. The judge may also on such application order the money, or a portion thereof, to be paid into court or otherwise apportioned and distributed as he may deem best in the interests of those entitled thereto.

III. Manitoba.

Act.—The workmen's compensation law in this province has recently been revised. The law is now contained in *The Workmen's Compensation Act, 1920*.¹ This statute provides for compensation to workmen for injuries sustained in the course of their employment.

Definitions.—Several words are used in the workmen's compensation law having a special meaning. Thus "accident" means a fortuitous event occasioned by a physical or natural cause, and includes a wilful and intentional act not being the act of the injured workman; "accident fund" means the fund provided for the payment of compensation, outlays and expenses under Part I of the Act; "board" means "The Workmen's Compensation Board" as created by the Act; "construction" includes reconstruction, repair, altera-

¹ Manitoba, Annual Statutes, 1920, ch. 159.

tion and demolition; "dependents" means such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who, but for the incapacity due to the accident, would have been so dependent; "employer" includes every person having in his service under a contract for hiring or apprenticeship, written or oral, expressed or implied, any person engaged in any work in or about an industry, including the Crown in the right of the province, as well as municipal corporations, boards and commissions, having the management and conduct of any work or service owned by or operated for a municipal corporation or by or for the Province of Manitoba, and where the services of a workman are temporarily let or hired to another person by the person with whom the workman has entered into such contract, the latter shall be deemed to continue to be the employer of the workman whilst he is working for that other person; "employment" means employment in an industry or any part, branch or department of an industry; "industrial disease" means any of the diseases mentioned in Schedule 2 of the Act and any other disease which by regulations is declared to be an industrial disease; "industry" includes establishment, undertaking, trade and business; "invalid" means physically or mentally incapable of earning; "manufacturing" includes altering, making, preparing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity; "medical referee" means a medical referee appointed by the board; "member of the family" means and includes wife, husband, parent, grandpar-

ent, step-parent, child, grandchild, step-child, brother, sister, half-brother and half-sister, and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis*, whether related to him by consanguinity or not so related, and, where the workman is the parent or grandparent of an illegitimate child, includes such child, and, where the workman is an illegitimate child, includes his parents and grandparents; "out worker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials; "person" includes females as well as males and any body corporate or politic; "physician" means and includes any person registered under *The Medical Act* and lawfully and regularly engaged in the practice of his profession in Manitoba; "regulations" means rules and regulations made by the board under the authority of the Act; "workman" includes a person, whether under the age of twenty-one years or not, who has entered into or works under a contract of service or apprenticeship, written or oral, expressed or implied, whether by way of manual labor or otherwise, but when used in Part I shall not include an out-worker or a person engaged in purely clerical work and not exposed to the hazards incident to the nature of the work carried on in the employment.

What Is Trade or Business for Purposes of Act.—In defining what a "trade or business" is under the Act, the exercise and performance of the powers and duties of a municipal corporation; the Greater Winnipeg

Water District; any commission or board having the management and conduct of any work or service owned or operated by a municipal corporation or by or for the Province of Manitoba; a school board; is for the purpose of the Act deemed the trade or business of the corporation, commission, board or school board, but the obligation to pay compensation under the Act applies only to such part of the trade or business as (if it were carried on by a company or an individual) would be an industry for the time being included within the Act and to workmen employed in or in connection therewith.

Compensation, When Payable.—Where, in any industry *within the scope of* the Act, personal injury by accident arising out of *and in the course of* the employment is caused to a workman, compensation is paid out of the accident fund. If the injury does not disable the workman longer than three days from earning full wages at the work at which he was employed, no compensation, other than medical aid, is payable. If the injury disables the workman longer than three days, no compensation, other than medical aid, is payable for the first three days of disability. Where the injury is attributable solely to the serious and wilful misconduct of the workman, no compensation is payable unless the injury results in death or serious and permanent disability. Where the accident arose out of the employment (unless the contrary is shown) it is presumed that it occurred in the course of the employment, and where the accident occurred in the course of the employment (unless the contrary is shown) it is presumed that it arose out of the employment.

Casual Employment.—The compensation law does not apply to a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

Extra-Provincial Employment.—No compensation is payable where the accident to the workman happened elsewhere than in Manitoba, except in a case where the accident happens on a steamboat, ship or vessel or on a railway and the workman is a resident of Manitoba and the nature of the employment is such that, in the course of the work or service which the workman performs, it is required to be performed both within and without Manitoba and the workman elects to claim compensation hereunder.

Permanent Disability.—The board may award compensation in respect of the permanent disability suffered by a workman but without temporary total disability.

Non-resident, When Entitled to Compensation.—Where a dependent is not a resident of Manitoba he is not entitled to compensation unless, by the law of the place or country in which he resides, the dependents of a workman to whom an accident happens in such place or country if resident in Manitoba would be entitled to compensation, and, where such dependents would be entitled to compensation under such law, the compensation to which the non-resident dependent is entitled cannot be greater than the compensation payable in the like case under that law. The board may award such compensation or sum in lieu of compensation to any such non-resident dependent as may be deemed proper and may pay the same out of the accident fund.

Action Against Person Other Than Employer.—

Where an accident happens to a workman in the course of his employment under such circumstances as entitle him or his dependents to an action against some person other than his employer, the workman or his dependents, if entitled to compensation, may claim such compensation or may bring such action. If an action is brought and less is recovered and collected than the amount of the compensation to which the workman or his dependents are entitled, the difference between the amount recovered and collected and the amount of such compensation is payable as compensation to such workman or his dependents. The board has the right to require that any money recovered and collected in such action (when it is less than the amount of the compensation to which the workman or his dependents are entitled) be paid over to and deposited with the board, to be kept and applied in or towards payment of the monthly or other periodical sums awarded or to be awarded as compensation. If any workman or dependent makes an application to the board claiming compensation the board is subrogated to the rights of the workman or dependent as against such other person for the whole or any outstanding part of the claim of the workman or dependent ~~against such other person~~. In any case neither the workman nor his dependents nor the employer of such workman has any right of action in respect of such accident against an employer in any industry coming under the compensation law (unless such accident occurred otherwise than in the conduct of the operations usual in or incidental to the industry carried on by such employer). In any such case where

it appears to the satisfaction of the board that a workman of an employer in any class is injured owing to the negligence of an employer or of the workman of an employer in another class within the scope of the Act, the board may direct that the compensation awarded in such case be charged against the last-mentioned class. In case the person required to make an election under these provisions is under the age of twenty-one years, his official guardian may make the election for him without the necessity of applying to any court or judge for directions in respect thereto.

Principal's Duty to See That Contractor Files Statements.—Where a person, whether carrying on an industry included within the scope of the Act or not, contracts with any other person for the execution by or under the contractor of the whole or any part of any work for the principal, it is the duty of the principal to see that such contractor files the statements and declarations required by the Act, and, if any such principal fails to do so he is liable to penalties.

Member of Family of Employer Must be Bona Fide Employee.—A member of the family of an employer or the dependents of such member are not entitled to compensation unless it is established to the satisfaction of the board that such member was a *bona fide* employee of such employer at the time of the accident, nor, for the purpose of determining the compensation, are his earnings to be taken to be more than the amount of his wages as shown by his employer's pay roll and statement.

No Action for Compensation.—No action lies for the recovery of the compensation, but *all claims for compensation are heard and determined by the board with-*

out the intervention of counsel or solicitors on either side, except with the express permission of the board.

Compensation to be in Lieu of Other Rights.—The right to compensation is in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependents are or may be entitled against the employer for or by reason of any accident which happens to him arising out of and in the course of his employment, and no action in any court of law against the employer thereafter lies.

Minor Entitled to Compensation.—A workman under the age of twenty-one years and working at an age and in an employment permitted under the laws of the province, is deemed *sui juris* for the purpose of the compensation law, and no other person has any cause of action or right to compensation for an injury to such workman.

Contracting Out of Act Forbidden.—It is not competent for a workman to agree with his employer to ~~waive or forego any of the benefits to which he or his~~ dependents are or may become entitled under the compensation law, and every agreement to that end is absolutely void.

No Deduction From Wages by Employer.—It is not lawful for an employer, either directly or indirectly, to deduct from the wages of his workmen any part of any sum which the employer is or may become liable to pay into the accident fund, or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability which he has incurred or may incur under the compensation law. Every person who contravenes this provision is

for every such contravention liable to a penalty not exceeding fifty dollars, and also liable to repay to the workman any sum which has been deducted from his wages from which he has been required or permitted to pay.

Notice of Accident.—In every case of injury to a workman by accident in any industry within the scope of the Act, it is the duty of the workman, or in case of his death, the duty of a dependent, as soon as practicable after the happening of the accident, to give *notice* thereof to the employer. The notice must be *in writing*, and contain the name and address of the workman, and state in ordinary language the nature and cause of the injury and the time when and place where the accident occurred, and be *signed* by the injured workman or some person on his behalf, or, in case of death, by any one or more of his dependents, or by a person on their behalf. In the case of an industrial disease, the employer to whom notice of death, disability or suspension from employment is to be given is the employer who last employed the workman in the employment to the nature of which the disease was due. The notice may be *served* upon the employer, or upon any one employer if there are more employers than one, or upon any officer or agent of the corporation if the employer be a corporation, or upon any agent of the employer in charge of the business in the place where the injury occurred, by delivering the same to the person upon whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail, addressed to him at his last-known residence or place of business. Failure to give the notice

required by virtue of this section, unless excused by the board, either on the ground: that notice for some sufficient reason could not have been given; or that the employer or his superintendent or agent in charge of the work where the accident happened had knowledge of the injury; or that the board is of opinion that the claim is a just one and ought to be allowed, is a bar to any claim for compensation.

Duty of Employer to Report Accident Within Three Days.—In case of accident to a workman in his employment, it is the duty of every employer, within three days after its occurrence, to report the accident and the injury resulting therefrom to the board, and also to any local representative of the board at the place where the accident occurred. The report must be in writing, and state: the name and address of the workman and the nature of the industry in which he was employed; the time when and place where the accident occurred; the cause and nature of the accident and injury; the name and address of the physician by whom the workman was or is being attended for the injury; and any other particulars required by the board. It may be made by mailing copies addressed to the board and to the local representative at their usual addresses respectively, postage prepaid. It is the duty of the employer to make such further and other reports respecting the accident and workman as may be required by the board. Every employer who fails to make any report required (unless excused by the board on the ground that the report for some sufficient reason could not have been made, incurs a penalty not exceeding \$500.00.

Application for Compensation.—Where a workman or dependent is entitled to compensation, he must file with the board *an application for the compensation*, together with the certificate of the physician (if any) who attended the workman, in the form prescribed by the board for that purpose, and such further or other proofs of his claim as may be required by the regulations or by the board. Unless application for the compensation is filed: within one year after the day upon which the injury occurred; or in case the applicant is a dependent, then within one year after the death, no compensation in respect of any injury is payable.

Duty of Attending Physician.—It is the duty of every physician attending or consulted upon any case of injury to a workman by accident in any industry: to furnish from time to time such reports in respect of the injury in such form as may be required by the regulations or by the board; and to give all reasonable and necessary information, advice, and assistance to the injured workman and his dependents in making application for compensation, and in furnishing in connection therewith such certificates and proofs as may be required, without charge to the workman. The physician is entitled for the certificates required by the board in respect to an injured workman, who is a claimant for compensation, to be paid by the board, out of the accident fund, a fee of two dollars.

Workman Must Submit to Medical Examination.—Every workman who applies for or is in receipt of compensation (if required by the board) must submit himself to medical examination in accordance with the regulations, at a place reasonably convenient for the

workman to be fixed by the board. If the workman fails to submit himself to the examination, or obstructs the same, his right to compensation is suspended until the examination has taken place, and no compensation is payable during the period of such suspension unless the board otherwise orders.

Practices Delaying Workman's Recovery.—If an injured workman persists in unsanitary or injurious practices which tend to imperil or retard his recovery, or refuses to submit to such medical or surgical treatment as in the opinion of the board is reasonably essential to promote his recovery, the board may, in its discretion, reduce the compensation of such workman to such sum, if any, as would in its opinion be payable were such practices not persisted in or if such treatment had been submitted to.

Compensation Moneys Exempt from Attachment, etc.—No sum payable as compensation or by way of commutation of any periodical payment in respect of it is capable of being assigned, charged or attached, nor shall it pass by operation of law except to a personal representative, nor shall any claim be set off against it.

Review of Payments by Board.—Any periodical payment to a workman may be reviewed from time to time by the board, and on such review the board may put an end to or diminish or may increase such payment to a sum not beyond the maximum hereinafter prescribed.

Minor, Basis of Compensation to.—Where the workman was, at the date of the accident, under twenty-one years of age, the amount of the weekly or other periodical payment may be fixed by the board by its first

order, or at any subsequent review, on the basis of the earnings of an average workman aged twenty-one years, employed at a similar class of work, or on any lower basis, provided the same be not lower than: (1) in the case of a first order, his average earnings at the date of the accident, and (2) in the case of a subsequent review, the average earnings which, if he had not been injured, he would probably have been earning at the date of the review.

Payments to be Made Periodically.—Payments of compensation are made periodically at such times and in such manner and form as the board may deem advisable. In the case of minors or persons of unsound mind, payments may be made to such persons as, in the opinion of the board, are best qualified in all the circumstances to administer such payments, whether or not the person to whom the payment is made is the legal guardian of such minor or person of unsound mind. The board may (with the consent of the workman or dependent to whom it is payable, but not otherwise) commute the whole or any part of the periodical payments due or payable to the injured workman or any dependent to one or more lump sum payments to be applied as directed by the board, or divide into periodical payments any compensation payable in a lump sum.

Medical Treatment in Addition to Compensation.—In addition to the other compensation, the board has authority to provide for the injured workman such medical, surgical, and hospital treatment, transportation, nursing, medicines, crutches, and apparatus, including artificial members, as it may deem reasonably

necessary at the time of the injury, and thereafter during the disability to cure and relieve from the effects of the injury, and the board has full power to adopt rules and regulations with respect to furnishing medical aid to injured workmen entitled thereto and for the payment thereof. Where in a case of emergency, or for other justifiable cause, a physician is called in to treat the injured workman, if the board finds there was such justifiable cause and that the charge for the services of such physician is reasonable, it must be paid by the board. Where in any case, in the opinion of the board, the provision of a special surgical operation, or other special medical treatment for a workman, and the furnishing of the same by the board, will be a means of avoiding heavy payment for a permanent disability, the amount of the cost thereof is payable as compensation, in addition to the amounts hereinafter mentioned. If an autopsy is deemed by the board necessary to enable it to determine the cause of any death, the board may direct that such autopsy be made within a time to be fixed by the board, and, if the dependent or dependents refuse to permit the same, the board may reject any claim for compensation. The expenses of such autopsy is paid out of the accident fund. The board may in its discretion authorize employers to furnish or provide medical aid at the expense of the board and upon terms fixed by it.

Group Medical Aid.—Any plan for providing medical aid in force between an employer and his workman or otherwise, available to the workmen, and which in the opinion of the board, after investigation of the facts, is found on the whole to be not less efficient in the

interests both of the employer and of the general body of his workmen than the above provisions for medical aid, may by order of the board, subject to such conditions as the board may require, be declared to be a plan approved by the board.

Medical Aid to be Under Supervision of Board.—Medical aid furnished or provided is at all times subject to the supervision and control of the board. The board has full power and authority to contract with doctors, nurses, hospitals and other institutions for any medical aid required, and to agree on a scale of fees or remuneration for such medical aid.

Workman's Personal Physician.—Without in any way limiting the power of the board to supervise and provide medical aid in every case where the board is of the opinion that the exercise of such power is expedient, the board may permit medical aid to be administered, so far as the selection of a physician is concerned, by the physician who may be selected or employed by the injured workman or his employer, to the end that so far as possible any competent physician may be employed and be available to injured workmen.

First-aid Appliances.—Employers in any industries in which it is deemed proper may be required by the board to maintain such first-aid appliances and service as the board may direct, and the board may make such order respecting the expense thereof as may be deemed just.

Compensation When Death Follows Injury.—Where death results from any injury the amount of compensation is as follows: (1) The necessary expenses of the

burial of the workman, not exceeding one hundred dollars; (2) where the widow or an invalid widower is the sole dependent, a monthly payment of thirty dollars for life; (3) where the dependents are a widow or an invalid widower and one or more children, a monthly payment of thirty dollars, with an additional payment of seven dollars and fifty cents for each child under the age of sixteen years, not exceeding in the whole sixty dollars; (4) where the dependents are orphan children, a monthly payment of fifteen dollars for each child under the age of sixteen years, not exceeding in the whole sixty dollars. Payments in respect of a child cease when the child attains the age of sixteen years or dies, but in case the child at the time of attaining the age of sixteen years is an invalid, the payments continue until the child ceases to be an invalid. Payments in respect of an invalid child over the age of sixteen years cease when the child ceases to be an invalid or dies; (5) where in the opinion of the board the furnishing of further or better education to a child approaching the age of sixteen years appears advisable the board in its discretion may extend the period to which compensation is paid in respect to such child for such additional period as is spent by such child in the furthering or bettering of his education, but in no case beyond the age of eighteen years; (6) where there are dependents other than those mentioned above, a sum reasonable and proportionate to the pecuniary loss to such dependents occasioned by the death to be determined by the board and not exceeding to any one such dependent twenty dollars per

month, and not exceeding in the whole forty dollars a month.

Duration of Payments to Dependents Other Than Widow and Children.—In the case provided for other dependents, the payments continue only so long as in the opinion of the board it might reasonably have been expected, had the workman lived, that he would have continued to contribute to the support of such dependents.

To Whom Payment Made in Case of Dependent Children.—Where the board is of the opinion that for any reason it is necessary or desirable that a payment in respect of a dependent child shall not be made directly to his parent, the board may direct that the payment may be made to such person or be applied in such manner as the board may direct for the advantage of the child.

No Compensation to Alien Enemies.—No compensation can be paid to or for the benefit of any dependent resident in any of the countries that were enemy countries during the recent great war at the date of the death in respect of which compensation would otherwise be payable.

Cessation of Payment to One of Several Dependents.

—Where a payment to any one of a number of dependents ceases, the board may in its discretion readjust the payments to the remaining dependents, so that the remaining dependents thereafter receive the same compensation as though they had been the only dependents at the time of the death of the workman.

Marriage of Dependent Widow.—If a dependent widow marries, the monthly payment to her ceases, but

she is entitled in lieu of that to a lump sum equal to the monthly payments for two years. This does not apply to payments to a widow in respect of her dependent child or children.

Proof of Condition of Dependents.—The board may from time to time require such proof of the necessities, condition and existence of any dependents in receipt of compensation payments as may be deemed necessary by the board, and pending the receipt of such proof may withhold further payments.

Compensation for Permanent Total Disability.—Where permanent total disability results from the injury, the amount of the compensation is a periodical payment during the life of the workman, equal to sixty-six and two-thirds per centum of his average earnings. Such compensation cannot be less than six dollars per week. In cases where the average earnings of the employee are less than six dollars per week, he receives as compensation the total amount of his average earnings.

Compensation for Permanent Partial Disability.—Where permanent partial disability results from the injury, the compensation is a periodical payment of sixty-six and two-thirds per centum of the difference between the average earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident, and the compensation is payable during the lifetime of the workman. Where, in the circumstances, the amount which the workman was able to earn before the accident has not been substantially diminished, the board may, in case the work-

man is seriously and permanently disfigured about the face or head, or otherwise permanently injured, recognize such injury as an impairment of earning capacity, and allow a lump sum in compensation therefor.

Compensation for Temporary Total Disability.—

Where temporary total disability results from the injury, the compensation is the same as that prescribed for permanent total disability, but payable only so long as the disability lasts. And, in case the period of disability appears in the opinion of the board to be unnecessarily prolonged, it may reduce temporarily or permanently the percentage of wages allowed as compensation, with power to restore the full percentage at any time.

Compensation for Temporary Partial Disability.—

Where temporary partial disability results from the injury, the compensation is the same as that prescribed for permanent partial disability, but payable only so long as the disability lasts.

Calculation of Average Earnings and Earning Capacity of Workman.—

The average earnings and earning capacity of a workman are determined with reference to his average earnings and earning capacity at the time of the accident, and may be calculated upon the daily, weekly or monthly wages and other regular remuneration which the workman was receiving at the time of the accident, or upon the average yearly earnings of the workman for one or more years prior to the accident, or upon the probable yearly earning capacity of the workman at the time of the accident, as may appear to the board best to represent the actual loss of earnings suffered by the workman by reason of the injury, but

not so that his average earnings in any case exceed the rate of two thousand dollars per year.

Pension, Gratuity, etc., May be Deducted.—In fixing the amount of a periodical payment of compensation regard is had to any payment, allowance or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer, and any sum so paid by the employer may be paid to the employer out of and deducted from the compensation.

The Workmen's Compensation Board.—The Board has exclusive jurisdiction to examine into, hear and determine all matters and questions arising under the compensation law, and as to any matter or thing in respect of which any power, authority, or discretion is conferred upon the board, and the action or decision of the board thereon is final and conclusive. It is not open to question or review in any court, and no proceedings by or before the board can be restrained by injunction, prohibition or other process or proceeding in any court or be removable by *certiorari* or otherwise into any court. The exclusive jurisdiction of the board extends to determining: (1) Whether any injury or death in respect of which compensation is claimed was caused by an accident; (2) the question whether any injury has arisen out of or in the course of an employment; (3) the existence and degree of disability by reason of any injury; (4) the permanence of disability by reason of any injury; (5) the degree of diminution of earning capacity by reason of any injury; (6) the amount of average earnings; (7) the existence

of the relationship of any member of the family of a workman; (8) the existence of dependency; (9) whether or not any industry or any part, branch or department of any industry is within the scope of the compensation law and the class to which any industry or any part, branch or department of any industry within the scope should be assigned; (10) whether or not any workman in any industry is within the scope of the compensation law and entitled to compensation thereunder.

Review by Board.—The board can reconsider any matter which has been dealt with by it or rescind, alter or amend any decision or order previously made. The decisions of the board are always given upon the real merits and justice of the case, and it does not follow strict legal precedent.

No Action for Damages Against the Board.—No action for damages can be brought in any court of law against the board, or any of its members, in respect of anything done by it or them beyond their jurisdiction, if the same was done in the bona fide belief that it was within their jurisdiction.

Compensation for Costs.—The board can award such sum as it may deem reasonable to the successful party to a contested claim for compensation or to any other contested matter as compensation for the expenses he has been put to by reason of or incidental to the contest, and an order of the board for the payment of any sum so awarded, when filed, becomes a judgment of the court in which it is filed and may be enforced accordingly.

Reports of Officers of Board.—The board may act

upon the report of any of its officers and any inquiry or examination which it deems necessary to make may be made by any one of the officers of the board, or by a commissioner, a medical referee or some other person appointed to make the inquiry or examination, and the board may act upon his report as to the result of the inquiry or examination.

Authority of Board to Determine Right of Action.—

Where an action in respect of an injury is brought against an employer by a workman or a dependent, the board has jurisdiction upon the application of any party to the action to adjudicate and determine whether the action is one the right to bring which is taken away by the Act. Such adjudication and determination is final and conclusive, and if the board determines that the action is one the right to bring which is taken away, the action is for ever stayed.

Accident Fund.—For the purpose of assessment in order to create and maintain a fund to be called the "Accident Fund" for the payment of the compensation, outlays and expenses under the compensation law, industries are classed as follows:—

Class A—The Canadian Pacific Railway Company and its subsidiary companies;

Class B—The Grand Trunk Pacific Railway Company and its subsidiary companies;

Class C—The Canadian National Railway Company;

Class D—The Crown in the right of the Province of Manitoba;

Class E—The City of Winnipeg;

Class F—All other municipalities in Manitoba;

Class G—All industries set out in schedule 1 and not included in the above classes.

Other Industries, Admission Within Scope of Act.—

Any industry or workman not within the scope of the Act may, on the application of the employer, be admitted by the board, subject to such terms and conditions and for such period as the board may deem adequate and proper.

The Crown—The compensation law applies to any employment by or under the Crown in the right of the Province of Manitoba to which it would apply if the employer were a private person.

Board Assigns Industry to Proper Class.—The board assigns every industry to its proper class. Where any industry includes several departments assignable to different classes, the board may either assign such industry to the class of its principal or chief department, or may divide such industry into two or more departments, assigning each of such departments to its proper class.

Employer to Make Estimate of Pay Roll for Year Ensuing.—Every employer must, on or before the first day of January, 1921, or whenever thereafter he becomes an employer, and at such other times as may be required by regulations or by the board, cause to be furnished to the board an estimate of the probable amount of the pay-roll of each of his industries for the year next following, together with such further and other information as may be required by the board for the purpose of assigning each industry to the proper class and of making the assessments hereunder. Every such employer must, at the close of each calendar year,

and, at such other times as may be required by the board, furnish certified copies or reports of his pay-rolls, verified by statutory declaration. In computing the amount of the pay-roll of any industry for the purpose of assessment, regard is had only to such portion of the pay-roll as represents workmen and employment within the Act. Where the wages of any workman exceed the rate of two thousand dollars per year, a deduction is made in respect of the excess. If an employer does not comply with these provisions, or if any statement made in pursuance of its provisions is not a true and accurate statement of any of the matters required to be set forth in it, the employer for every such non-compliance and for every such inaccurate statement incurs a penalty not exceeding \$500.

Annual Assessment for Accident Fund.—For the purpose of creating and maintaining an adequate accident fund, the board every year assesses and levies upon and collects from the employers in each class by an assessment or by assessments made from time to time rated upon the pay-roll, or in such other manner as the board may deem proper, sufficient funds, according to an estimate to be made by the board: (1) To meet all amounts payable from the accident fund during the year; (2) to provide in each year capitalized reserves sufficient to meet the periodical payments of compensation accruing in future years in respect of all accidents which occur during the year; except that in cases where future payments are guaranteed by the Governments of the Dominion of Canada or the Province of Manitoba, the board may dispense with the setting up of reserves; and (3) to provide a surplus or equaliza-

tion fund to be used to meet the losses arising from any disaster or other circumstance which, in the opinion of the board, would unfairly burden the employers in any class.

Assessment, How Made.—Assessments may be made in such manner and form and by such procedure as the board may deem adequate and expedient, and may be general as applicable to any class or sub-class, or special as applicable to any industry or part or department of an industry. Assessments may, wherever it is deemed expedient, be collected in half-yearly, quarterly, or monthly instalments, or otherwise, and, where it appears that the funds in any class are sufficient for the time being, any instalment may be abated or its collection deferred. In case the estimated assessments in any class prove insufficient, the board may make such further assessments and levies as may be necessary, or the board may temporarily advance the amount of any deficiency out of any fund provided for that purpose, and add such amount to any subsequent assessments. The board gives notice to each employer of the amount of each assessment due from time to time in respect of his industry and the time when such is payable. The notice is sent by post to the employer, and is deemed to be given to him on the day on which the notice is posted.

Allocation of Rates to Kinds of Employment in the Same Class.—The board establishes such sub-classifications, differentials, and proportions in the rates as between the different kinds of employment in the same class as are just. Where in the opinion of the board any particular industry is shown to be so circumstanced

or conducted that the hazard differs from the average of the class or sub-class to which the industry is assigned, the board confers or imposes upon such industry a special rate, differential, or assessment to correspond with the relative hazard of that industry. For such purpose it can adopt a system of rating in such a manner as to take account of the peculiar hazard of the individual plant or undertaking of each employer.

Security by Employer in Industry Carried on Temporarily.—Where an employer engages in any of the industries, and has not been assessed in respect to it, the board, if it is of opinion that the industry is to be carried on only temporarily, or that it is for some other reason expedient, may require the employer to pay or to give security for the payment to the board of a sum sufficient to pay the assessment for which the employer would be liable if the industry had been in existence when the last preceding assessment was made. Every employer who makes default in complying with any requirement of the board incurs a penalty not exceeding \$500.

Collection of Assessments by Board.—If any assessment or part thereof or deficiency is not duly paid in accordance with the terms of the assessment and levy, the board has a right of action against the defaulting employer in respect of the amount unpaid, together with costs of such action. Where default is made in the payment of any assessment or any part of it, the board may issue a certificate stating that the assessment was made, the amount remaining unpaid on account of it, and the person by whom it is payable, and such certificate, or a copy of it, certified by

the secretary under the seal of the board to be a true copy, may be filed with the clerk of the County Court of the judicial division in which such person resides or carries on business, and when so filed it becomes an order of that court, and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate.

Percentage as Penalty for Non-payment of Assessment.—If any assessment levied is not paid at the time when it becomes payable, the defaulting employer is liable to pay as a penalty for his default such a percentage upon the amount unpaid as may be prescribed by regulations or may be determined by the board. Any employer who refuses or neglects to make or transmit any pay-roll, return or other statement required to be furnished by him, or who refuses or neglects to pay any assessment, or the provisional amount of any assessment, or any instalment or part thereof (in addition to any penalty or other liability to which he may be subject) pays to the board the full amount or capitalized value, as determined by the board, of the compensation payable in respect of any accident to a workman in his employ which happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced. The board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section.

Separate Accounts for Each Class or Fund.—Separate accounts are kept of the amounts collected and expended in respect of every class and of every fund

set aside by way of reserve or as a special fund for any purpose, but for the purpose of paying compensation the accident fund is, nevertheless, deemed one and indivisible.

Annual Adjustment of Assessment.—On or before the thirty-first day of March in each year the amount of the assessment for the preceding calendar year is adjusted upon the actual requirements of the class and upon the correctly ascertained pay-roll of each industry, and the employer forthwith makes up and pays to the board any deficiency, or the board refunds to the employer any surplus, or credit the same upon the succeeding assessment as the case may require.

Change in Ownership of Industry.—Where in any industry a change of ownership or employership has occurred, the board may levy any part of such deficiency on either or any of the successive owners or employers, or pay or credit to any one or more of such owners such surplus as the case may require, but as between or amongst such successive owners the assessments in respect of such employment is (in the absence of an agreement between the respective owners or employers determining the same) apportionable, as nearly as may be, in accordance with the proportions of the pay-rolls of the respective periods of ownership or employment.

Work Done for Municipal Corporation Under Contract.—Where any work is performed under contract for any municipal corporation, or for any board or commission having the management of any work or service operated for the municipal corporation, any assessment in respect of such work may be paid by such

corporation, board, or commission, as the case may be, and the amount of such assessment deducted from any moneys due the contractor in respect of such work.

Liability of Contractor and Principal.—Where any work is undertaken for any person by a contractor, both the contractor and the person for whom such work is undertaken is liable for the amount of any assessment made under the Act in respect thereof, and such assessment may be levied upon and collected from either of them, or partly from one and partly from the other. In the absence of any term in the contract to the contrary, the contractor is, as between himself and the person for whom the work is performed, primarily liable for the amount of such assessment. Where any work is performed under sub-contract, both the contractor and the sub-contractor are liable for the amount of the assessments in respect of such work. Any such assessments may be levied upon and collected from either, or partly from one and partly from the other.

Industrial Diseases.—Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed, or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disability, whether under one or more employments, the workman or his dependents are entitled to compensation as if the disease were a personal injury by accident and the disability were the happening of the accident, subject to the modifications herein mentioned, unless at the time of entry into the employment he had wilfully and falsely represented

himself in writing as not having previously suffered from the disease. The board may by regulation require every physician treating a patient who is suffering from any industrial disease to report to the board such information relating thereto as it may require. If the workman, at or immediately before the date of the disability, was employed in any process mentioned in the second column of Schedule 2 hereto, and the disease contracted is the disease in the first column of the schedule set opposite to the description of the process, the disease is deemed to have been due to that employment unless the contrary is proved.

Description of disease.	Description of process.
Anthrax	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelæ	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds.
Phosphorous poisoning or its sequelæ	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelæ	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis	Mining.

However, this does not affect the right of the workman to compensation in respect of any disease to which

this provision does not apply, if the disease is the result of an injury in respect of which he is entitled to compensation under the Act. Except where the board is satisfied that the disease is not due to any other cause than his employment in Manitoba, no compensation is payable unless the workman has been a resident of Manitoba for the three years next preceding his first disability.

Other Trades or Businesses and Special Cases.—

Where personal injury is caused (outside of the trades or businesses to which the Act applies) to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment, the workman or, if the injury results in death, the legal personal representatives of the workman, and any person entitled in case of death, shall have an action against the employer, and if the action is brought by the workman he is entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and, if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under an Act respecting Compensation to Families of Persons Killed by Accident, Revised Statutes of Manitoba, 1913, chapter 36, they are entitled to recover such damages as they are entitled to under that Act. Where the execution of any work is being carried into effect under any contract, and the person for whom the work is

done, owns or supplies any ways, works, machinery, plant, buildings or premises and by reason of any defect in the condition or arrangement of them personal injury is caused to a workman employed by the contractor or by any sub-contractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done is liable to the action as if the workman had been employed by him, and for that purpose he is deemed to be the employer of the workman, but any such contractor or sub-contractor is also liable to the action as if this provision had not been enacted, but not so that double damages be recoverable for the same injury. This does not affect any right or liability of the person for whom the work is done and the contractor or sub-contractor as between themselves. A workman is not, by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence which caused his injury, deemed to have voluntarily incurred the risk of the injury. A workman is hereafter deemed not to have undertaken the risks due to the negligence of his fellow workman, and contributory negligence on the part of the workman is not now a bar to recovery by him or by any person entitled to damages under the Act respecting Compensation to Families of Persons Killed by Accident, Revised Statutes of Manitoba, 1913, chapter 36, in an action for the recovery of damages for an injury sustained by or causing the death of the workman while in the service of his employer for which the employer would other-

wise have been liable. Contributory negligence on the part of the workman is, nevertheless, taken into account in assessing the damages in any such action.

Farm Laborers, etc., How Brought Under Act.—The compensation law does not apply to farm labourers or domestic or menial servants. Any such employees may on application of their employer and approved by the board be brought under the Act.

GLOSSARY.

Abstract of Title, short particulars of the ownership of property.

Acceptor, a person who accepts a bill of exchange drawn on him.

Accessory, one assenting to an offence.

Accumulation, gathering together or heaping up.

Accused, a person charged with an offence.

Acquiescence, consent.

Acquittal, to free, acquit or discharge.

Ad diem, at the day.

Ad idem, tallying in the essential point.

Ad infinitum, without limit.

Ad interim, in the meantime.

Adjournment, putting off to another time and place.

Adjudication, giving or pronouncing a judgment, sentence or decree.

Admissions, concessions of certain facts.

Affidavit, a written statement sworn before a person having authority to administer an oath.

A fortiori, by so much stronger reasoning.

Alias, a second name applied to a person where it is doubtful which of the two names is his real name.

Alienation, transferring property to another.

Aliter, otherwise.

Aliunde, from another place or person.

Amendment, a correction of an error.

Amends, satisfaction.

Analogy, a similarity.

Animus furandi, the intention of stealing.

Animus revocandi, the intention to revoke.

Anno Domini, in the year of our Lord.

Ante, previous.

Appellant, party appealing.

Appraisers, persons appointed to value goods.

Apprehension, to seize.

A priori, from cause to effect.

Arraign, to call on to account.

Ash Wednesday, the first day of Lent.

Assign, to transfer or set over.

Assignee, the person to whom goods are assigned.

Assizes, court sittings.

Attachment, court process.

Attempt, an endeavor to commit some act.

Attesting witness, a person who has seen a party execute a deed or sign a written agreement.

Audit, an examining of accounts.

Auditor, one who examines accounts.

Authentication, an attestation made by a proper officer certifying as to execution in due form of law.

Autonomy, political independence.

Autrefois, formerly.

Aver, to maintain as true.

Aye, yes.

Bail, to set at liberty.

Bailiff, one who executes process.

Bequeath, to leave by will to another.

Bequest, a legacy.

Bill of Sale, a writing by which chattels are assigned to another.

Bona fide, in good faith.

Bona vacantia, stray goods.

Bond, a written acknowledgment of a debt, under seal.

Brokerage, the commission or percentage paid to brokers on the sale or purchase of anything.

Calling the Jury, successive drawing out of a box the names of jurors.

Capias ad satisfaciendum, that you take to satisfy.

Capita, heads.

Caption, that part of a document which shows when, where and by what authority, it is taken, found or executed.

Casting vote, a vote given by the chairman when the voting at the meeting is equal.

Causa causans, immediate cause.

Causa mortis, in prospect of death.

Cause, a suit or action.

Cause of action, a right to sue.

Caveat, a caution or warning.

Caveat emptor, let the buyer beware.

Cestui que trust, the person who possesses the equitable right to property and receives the rents, issues, and profits thereof, the legal estate of which is vested in a trustee.

Charge-sheet, a paper kept at some police stations showing names of persons brought into custody each day.

Chattels, goods.

Chose, a thing.

Clerical error, a mistake in copying.

Code, a collection or system of law, criminal code.

Codicil, a supplement to a will.

Commission of the peace, the appointment of justices of the peace.

Common seal, a seal used by any corporation as the symbol of its incorporation.

Commutation, conversion.

Compos mentis, sound of mind.

Composition, amicable settlement of a law suit.

Concurrent, contemporaneous.

Confrères, brethren in a religious house.

Conjugal rights, the right which husband and wife have to each other's society, comfort and affection.

Consanguinity, relationship or kindred of persons.

Contempt of Court, disobedience to court's orders.

Coverture, legal condition of a woman during marriage.

Cross-examination, the examination of a witness on one side by the other.

Cumulative legacies, legacies so called to distinguish them from legacies which are merely repeated.

Curator, a protector of property.

Currency, coin, &c., legal tender.

Custos rotulorum, keeper of the rolls.

Cy-près, near to it.

Damage-feasant, doing damage.

Damnum absque injuria, a loss without a wrongful act.

De bonis non, of the goods of a deceased person not administered.

Debtor, he that owes something to another.

Decalogue, the ten commandments given by God to Moses.

De die in diem, from day to day.

De facto, in fact.

Demise, lease.

De novo, afresh.

De son tort, of his own wrong.

Dies non Juridicus, not a court day.

Disclaimer, a renunciation.

Discovery, revealing or disclosing a matter.

Distrain, to make seizure of goods or chattels by way of distress.

Distringas, that you distrain.

Divorce, the dissolution of the marriage contract.

Domicile, the place where a person has his home.

Donatio mortis causa, a gift of personal property in contemplation of death.

Donor, a giver.

Draft, a bill drawn by one person upon another for a sum of money.

Drawee, the person on whom a bill of exchange is drawn.

Drawer, the person making a bill of exchange and addressing it to the drawee.

Duces tecum, you shall bring with you.

Dum sola, while single or unmarried.

Duress, constraint, compulsion.

Exempli gratia (e.g.) for the sake of an example.

Ejusdem generis, of the same kind or nature.

Electór, he that has a vote.

Enact, to establish by law.

Eó nomine, by that very name.

Estoppel, a conclusive admission, which cannot be denied or controverted.

Ex contractu, from a contract.

Ex delicto, from an offence.

Executrix, a woman appointed by a testator to perform his will.

Ex lex, an outlaw.

Ex mero motu, of his own accord.

Ex officio, by virtue of office.

Ex parte, on behalf of, or a proceeding in the absence of another.

Expatriation, forsaking one's country, renouncing allegiance.

Ex post facto, from a law made after.

Ex Rel, on the report of.

Fac simile, an exact copy.

Fee simple, a freehold estate of inheritance absolute and unqualified.

Felo de se, a self murderer.

Feme-covert, a married woman.

Feme-sole, an unmarried woman.

Fiat, let it be done.

Fieri facias, that you cause to be made.

Garnishee, a person warned not to pay money which he owes to another person.

Garnishment, warning not to pay money.

Grantee, he to whom any grant is made.

Grantor, he by whom a grant is made.

Habeas corpus, a writ or order requiring production of a body.

Hereditaments, every kind of property that can be inherited.

In articulo mortis, at the point of death.

In custodia legis, in the keeping of the law.

In esse, actually existing.

In extenso, from beginning to end, leaving out nothing.

In extremis, at the last gasp.

Infra, subsequent.

In loco parentis, in the place of a parent.

In propria persona, in one's own proper person.

In re, in the matter of.

In statu quo, in the condition in which it was.

Inter alia, amongst other things.

Interim order, one made in the meantime.

Interrogatories, written questions.

In toto, altogether.

In transitu, during the passage.

Ipsso facto, by the very act itself.

Irrevocable, incapable of being revoked.

Item, also.

Judgment, decision of a court.

Judgment debtor, one against whom a judgment ordering him to pay a sum of money stands unsatisfied.

Jura regalia, royal prerogatives.

Jurat, the memorandum of the time, place, and person before whom an affidavit is sworn.

Jurisdiction, extent of power or authority.

Jurisprudence, science of law.

Juror, one who serves on a jury.

Jury, a company of men sworn to deliver a verdict upon evidence delivered to them.

Jury box, place in court where the jury sit.

Jus accrescendi, the right of survivorship.

Jus commune, the common law.

Jus in re, a complete and full right.

Jus merum, mere right.

Jus tertii, right of a third person.

Justifying bail, proving the sufficiency of the sureties.

Juxta formam statuti, according to the form of the statute.

Kindred, relations by blood.

Koran, Mohammedan book of faith.

Laches, neglect.

Land-mark, an object fixing the boundary of an estate.

Leading question, a suggestive interrogation.

Lease, the letting of property.

Legacy, a gift of personalty by will.

Legatee, one who has a legacy left to him.

Legislature, law-making body.

Legitimacy, lawful birth.

- Levy**, a means for raising money.
- Lex**, law.
- Lex fori**, the law of a place.
- Lex loci contractus**, the law of the place of contract.
- Lex loci rei sitae**, the law of the place where the thing is situate.
- Lex Mercatoria**, law merchant.
- Lex non scripta**, the unwritten or common law.
- Lex scripta**, the statute (written) law.
- Libel**, defamatory writing.
- Idem**, a right to retain possession.
- Idem**, in place of.
- Limitation of actions**, period within which action must be brought.
- Limited liability**, restriction upon extent of loss.
- Lineal consanguinity**, relationship in descent in direct line.
- Lis pendens**, a pending suit.
- Literal proof**, written evidence.
- Liturgy**, book of Common Prayer.
- Locatio rei**, hiring of any thing.
- Locus in quo**, the place in which.
- Locus standi**, right of a party to appear in an action.
- Lord's Day**, Sunday.
- Magna Charta**, the great charter of liberties.
- Mala fides**, bad faith.
- Malicious prosecution**, a prosecution preferred maliciously without reasonable or probable cause.
- Mandamus**, a writ or order of court commanding something to be done.
- Manumission**, giving freedom to slaves.
- Marital rights**, rights of a husband.
- Marksman**, a person who makes his mark in executing a document.
- Marshalling**, arranging or putting into proper order.
- Maturity**, the time when a bill of exchange or promissory note becomes due.
- Misnomer**, a wrong name.
- Mitigation**, reducing the penalty.

Moiety, one of two equal parts—a half.

Mortgage, a pledge.

Motion, an application in court.

Mutuality, reciprocation.

National Debt, the money owing by the government.

Natural affection, the love which one has for his kindred.

Negotiable instruments, those the right of action upon which is by exception from the common rule, freely assignable.

Next of kin, those nearest in blood relationship.

Nolle prosequi, a stay of criminal proceedings.

Non obstante, notwithstanding.

Non sequitur, it does not follow.

Notary public, a person authorized by the government to attest deeds.

Novation, substitution of a new debtor.

Nudum pactum, an agreement without a consideration.

Nulla bona, no goods.

Nuncupative will, one declared by word of mouth.

Oath, an appeal to God to witness the truth of a statement.

Obiter Dictum, a saying by the way.

Officio, ex, by virtue of office.

Ouster, dispossession.

Overdue, past the time of payment.

Over-rule, to set aside authority of a former decision.

Pari passu, without preference or priority.

Parol evidence, testimony by the mouth of a witness.

Particeps criminis, partner in crime.

Payee, one to whom a bill is payable.

Pecuniary legacy, a testamentary gift of money.

Pedlars, persons who carry their goods from place to place for sale.

Pendente lite, during litigation.

Per capita, per head.

Per quod, whereby.

Per se, by itself.

Post diem, after the day.

Posterity, succeeding generations.

Post-mortem, after death.

Preamble, preface, introduction.

Precatory words, words of recommendation or suggestion in a will.

Precedents, examples followed in a court of justice.

Probate, official proof of a will.

Process, writs, summons, &c.

Pro hac vice, for this occasion.

Prolixity, superfluous.

Proof, evidence.

Proprio vigore, by its own force.

Pro rata, in proportion.

Quantum meruit, so much as he has deserved.

Quash, to annul.

Quid pro quo, what for what.

Quit claim, quitting one's right claim or title.

Quorum, number of persons required to be present at meeting to make acts valid.

Ratification, confirmation.

Real estate, land.

Rebate, discount.

Rebut, to contradict.

Recognition, an acknowledgment of a debt due crown.

Referee, one to whom anything is referred.

Relevant, applying to the matter at issue.

Relict, a widow.

Remand, to recommit or send back to prison.

Remise, to release.

Remoteness, want of close connection.

Renounce, to give up right.

Reprieve, suspension of sentence.

Rescission, annulment.

Res gestae, in the course of the transaction.

Residuary legatee, one who takes the surplus of the state.

Res ipsa loquitur, the thing speaks for itself.

Res judicata, a point already decided by authority.

Restitutio in integrum, a rescinding of the contract and a placing in the same position as before.

Restitution, restoring anything unjustly taken from another.

Revocation, undoing a thing done.

Ring the changes, trick of changing good money for counterfeit.

Sans recours, without recourse to me.

Script, a writing.

Shew cause, to appear and answer why.

Similarity, in like manner.

Simple contract, a parol promise verbal or written but not under seal.

Sine die, indefinitely.

Specialty debts, bonds, mortgages, &c.

Status, position.

Statu quo, the state of things.

Subpoena, a writ commanding attendance to give evidence.

Subrogation, substitution.

Sui juris, of his own right.

Testament, a will.

Testator, a man who makes a will.

Testatrix, a woman who makes a will.

Testimony, proof by a witness.

Tort, an injury or wrong.

Tortfeasor, a wrongdoer.

Toties quoties, as often as occasion shall require.

Transfer, to convey.

Trust, a confidence reposed in another.

Trustee, one entrusted with property for the benefit of another.

Uberrima fides, utmost faith.

Uttering, putting in circulation.

Vacantia bona, things without an owner.

Vadium, a pledge.

Variance, difference between statements.

Vendee, one to whom anything is sold.

Vendor, one who sells anything.

Venue, place of trial.

Vi et armis, with force and arms.

Vis major, inevitable accident.

Viva voce, by word of mouth.

Voucher, a receipt.

Waiver, passing by of a right.

Wardship, guardianship.

Warranty, a guarantee or security.

Waste, spoil or destruction.

Will, a testamentary disposition.

Witness, one who gives evidence on a cause.

Writ, a judicial process.



INDEX

A.

Actions, 1.

- civil, 1.
- criminal, 1.

Administration of Estates, 3.

- acts of other executors, 9.
- accounting for the estate, 9.
- debts of deceased partners, 8.
- devices of real estate, 7.
- distribution where no will, 7.
- effect of grant, 4.
- generally, 3.
- getting in assets, 4.
- inventory of estate, 4.
- letters probate, 3.
- letters of administration, 3.
- liabilities of executors and administrators, 7, 8.
- payment of debts, 5.
- payment of legacies, 6.
- personal liability of executor, 8.
- powers of executors and administrators, 7.
- remuneration of executors, 10.
- residue, 7.
- succession duties, 10.

Affidavits and Declarations, 11.

- affidavits, 11.
- false swearing, 12.
- statutory declarations, 11.

Agents, 12.

- auctioneers, 14.
- bills and notes, 18, 19.
- barristers and solicitors, 14.
- bribes, 16.
- brokers, 13.
- binding principal, 17.
- commission, 16.
- contracts for principal, 15.
- contracting as principals, 18.
- disposing of goods, 18.
- duties, 15.
- factors, 13.
- fraud, 18.
- general, 12.
- holding out, 20.
- liability, 19, 20.
- loss through agent, 16.
- losses and expenses of, 17.

- money received by, 19.
- notice to, 19.
- payments to, 18.
- personal interests and profits, 15.
- personal liability, 19.
- remuneration, 16.
- signing notes, 18.
- special, 13.
- sub-agents, 14.
- suing on contracts, 20.
- termination of agency, 20, 21.
- using information, 15.
- when liable, 19.
- when not liable, 19.
- wrongs committed by, 19.
- wrongful acts, 20.

Aliens, 21.

- acquiring and disposing of property, 21.
- arms, 22.
- British women marrying foreigners, 22.
- definition, 21.
- naturalization, 23.
- trials in court, 21.
- widows of, 22.
- wife of, 21.

Arbitration, 24.

- agreement, 24.
- how arranged, 24.
- procedure, 25.
- who may be, 25.

Assignments, 26, 29.

Auctioneers, 27.

- bidding, 28.
- deposit, 28.
- duties, 28.
- liability, 29.
- remuneration, 28.
- statements by, 27.

B.

Bankruptcy, 29.

- assignments, 29.
- attachments, executions, etc., 30.
- affidavit following registration, 33.

notice of, 31.
 omissions to register, 35.
 registration, 32.
 debts and claims, 40.
 disallowance, 45.
 directors' wages, 44.
 husband and wife claimants, 43.
 interest on debts, 44.
 proofs, 41.
 relatives, 43.
 secured creditors, 42.
 wages of relatives, 43.
 wages of shareholders, etc., 44.
 discharge, 49.
 annulling adjudication, 55.
 certificate, 53.
 debts released, 55.
 debts not released, 55.
 powers of court, 50.
 partners and co-trustees' position, 55.
 reading hearing before, 53.
 trustees' report, 49.
 distribution of property among claimants, 46.
 equal payment, 46.
 partners and separate estates, 46.
 rent, 47.
 surplus, 46.
 taxes, 47.
 duties of bankrupt, 39.
 petitions, 35.
 affidavit on, 37.
 conditions precedent, 37.
 commencement of bankruptcy, 39.
 hearing, 38.
 stay of proceedings, 38.
 withdrawal, 39.

Banking and Money, 56.

accounts, 57.
 banks, 56.
 cashing cheques, 59.
 cheque writing, 58.
 deposits, 57.
 endorsing cheques, 59.
 withdrawals, 58.

Bills and Notes, 60.

acceptance, 63.
 accommodation, 61.
 after date, 63.
 consideration, 61.
 days of grace, 65.
 demand and site, 63.
 discharge, 68.
 dishonour, 63, 65.
 endorers, liability of, 67.
 endorsement, 62.
 form of notice of dishonour, 66.
 form and conditions, 60.

forged, 63.
 holder in due course, 62.
 how presented for payment, 64.
 interest, 65.
 joint and renewal, 61.
 liability of parties, 67.
 legal holidays, 65.
 loss, 68.
 notice of dishonour, 66.
 overdue, 63.
 parties, 60.
 payable after date, 63.
 payable elsewhere, 63.
 presentment for acceptance, 63.
 presentment for payment, 64.
 place of presentment for payment, 64.
 protest, 66.
 transfer of notes payable to bearer, 68.

Bills of Sale.

See CHATTEL MORTGAGES.

Bonds, 68.

companies, 69.
 release, 69.

Brands.

Alta., 70; Sask., 78; Manitoba, 87.
 act, Alta., 70.
 allotment, Alta., 73; Sask., 81;
 Man., 88.
 assignment, Alta., 74, 75; Sask.,
 83, 84; Man., 89, 90.
 application for, Alta., 73; Sask.,
 81; Man., 88.
 application for transfer, Alta.,
 76.
 books, Alta., 74; Sask., 79.
 certificate of record, Alta., 73,
 Sask., 82.
 cancellation, Alta., 71; Sask.,
 79; Man., 91.
 change in brand, Alta., 74; Sask.,
 82; Man., 92.
 conflicting, Alta., 74; Sask., 83;
 Man., 91.
 commissioners, Alta., 77; Sask.,
 85.
 death of owner, Sask., 83.
 definitions, Alta., 70; Sask., 78;
 Man., 87.
 fees, searches and extracts, Alta.,
 73; Sask., 81; Man., 92.
 form of, Alta., 70; Sask., 79.
 notice of expiration, Alta., 74;
 Sask., 82.
 offences and penalties, Alta., 77;
 Sask., 86.
 owner's rights, Alta., 72; Sask.,
 80; Man., 88, 89.

Misuse of brands, Alta., 77;
Sask., 86; Man., 90.
property in, Alta., 7f; Sask., 79.
publication of recorded brands,
Alta., 74; Sask., 82; Man.,
88.
re-allotment, Alta., 71; Sask., 80.
records, Alta., 72; Sask., 81;
Man., 87.
renewal, Alta., 71; Sask., 80.
sale of branded cattle, Man., 90.
selection, Man., 88.
searches and extracts, Alta., 73;
Sask., 81; Man., 92.
transfer, Alta., 74, 75; Sask.,
83, 84; Man., 89, 91.
vent, Alta., 76; Sask., 85; Man.,
92, 93.

C.

Chattel Mortgages, 93.

a bill of sale, 93.
a chattel mortgage, 93.
bills of sales, 93.
compliance with statutes, 96.
consideration, 94.
definition, 93.
form and contents, 94.
fraud, 95.
goods and chattels, 95.
parties, 94.
registration, 93.

Contracts, 96.

assignment, 102.
alteration, 102.
breach of statute, 102.
consideration, 99.
discharge, 103.
fraud, 101.
illiterate persons, 101.
illegal contracts, 102.
mistake, 100.
misrepresentation, 101.
parties, 100.
physical force, 101.
requisites, 97, 98.
requiring writing, 97.
seal, 99.
second contracts, 103.
undue influence, 101.
written, 97, 98.
writing not required, 99.
writing required in certain cases,
97, 98.

Companies, 104.

adjourned meetings, 107.
application for shares, 109.
bonds, 111.
calls, 110.

directors, 112.
consent, 113.
disqualification, 112.
election, 112.
interference with, 113.
liability, 113.
meetings, 106, 112.
powers, 112.
debentures, 111.
forfeiture, 111.
meetings, 106.
adjourned, 107.
directors, 106.
extraordinary, 107.
general, 106.
ordinary, 107.
provisional directors, 106.
statutory, 106.
nature, 104.
partnership, 108.
prospectus, 107.
private, 105.
provisional directors, 106.
public, 105.
sale of shares, 110.
shares, 108.
kinds, 108.
forfeiture, 111.
applications, 109.
calls on, 110.
issue at a discount, 109.
certificates, 111.
who may hold, 109.
subscribing for, 111.
transfer, 109.
sale of shares, 110.
subscribing for shares in, 111.
winding up, 114.
compulsory, 115.
distribution of assets, 116.
voluntary, 114.

Corporation Tax,

117, 135, 152.
actions and prosecutions, Sask.,
152; Man., 173.
annual statements, Alta., 129;
Sask., 146.
adding tax to loan prohibited,
146; Man., 174.
arrears of taxes, Man., 170.
auditing companies' books, Man.,
174.
banks, Alta., 117; Sask., 138;
Man., 158.
brokers, Man., 164, 165.
definitions, Sask., 135; Man.,
152.
default, Alta., 128, 134; Sask.,
149, 150.
distress, Man., 166.
effect of not paying tax, Alta.,
134.

electric light companies, Alta., 124; Man., 163.
 electric railways, Man., 162.
 express companies, Alta., 124; Sask., 143; Man., 164.
 gas companies, Alta., 124, 127; Man., 163.
 gross premium, Sask., 136.
 inquiries, Man., 171.
 joint stock companies, 125.
 insurance companies, Alta., 119, 131; Sask., 138; Man., 159, 171.
 investing companies, Sask., 141.
 land companies, Alta., 121; Sask., 142; Man., 160.
 loan companies, Alta., 118, Sask., 142; Man., 159.
 lien for tax, Alta., 129; Sask., 151; Man., 166, 175.
 mortgages and securities, Sask., 145.
 municipal taxation, Alta., 135; Sask., 152; Man., 174.
 mutual companies, Sask., 140.
 natural gas companies, Alta., 127.
 penalty for default, Alta., 128, 134.
 power plants, Alta., 128.
 prosecutions, Sask., 152.
 private banks, Alta., 117; Sask., 138.
 recovery of tax, Sask., 151; Man., 165.
 re-insurance, Sask., 140.
 remitting penalties, Alta., 133.
 returns, Alta., 131, 134; Man., 166, 171.
 revoking license, Alta., 133; Man., 169.
 special brokers, Man., 164.
 statements, Alta., 130, 131; Sask., 146-7.
 street railway companies, Alta., 123; Man., 162.
 striking off register, Sask., 150; Man., 169.
 suspending corporations, Man., 169.
 time for return, Alta., 131.
 telegraph companies, Alta., 123; Sask., 143; Man., 162.
 telephone companies, Alta., 124; Man., 163.
 trust companies, Alta., 122; Sask., 144, 145; Man., 161.
 underwriters business, Man., 164.
 when payable, Alta., 128; Sask., 146.

D.

Dairy Industry, 175, 179, 183, 189.
 associations, Alta., 179.
 butter, Canada, 176.
 cheese, Canada, 177.
 cream stations, Alta., 180; Man., 191.
 entering premises, Canada, 177.
 generally, 175, 179, 183, 189.
 inspectors, Canada, 177; Alta., 183.
 licenses, Alta., 181; Sask., 184; Man., 191.
 milk, Canada, 176; Man., 190.
 methods, Sask., 186.
 records, Alta., 182.
 regulations, Canada, 178.
 sample and testing, Sask., 187.
 sanitation, Alta., 181; Sask., 186; Man., 190.
 statements, Alta., 182; Sask., 188.
 tests, Alta., 181; Sask., 185.
 weight, grade, classification, Alta., 183; Sask., 186.
Descent and Distribution, 191.
 advances to children, Sask., 199; Man., 203.
 Alberta, 191.
 brothers and sisters, Alta., 193; Sask., 197.
 children only, Sask., 197; Man., 202.
 father, mother, Alta., 193; Sask., 197.
 halfblood, Sask., 198; Man., 204.
 husband, wife and children, Alta., 192.
 illegitimate children, Alta., 194; Sask., 200.
 lapsed legacies and devises, Alta., 195.
 Manitoba, 201.
 married woman, man, 203.
 minor children deceased, Sask., 198; Man., 204.
 next of kin, Alta., 194; Sask., 197; Man., 202.
 property to be distributed, Alta., 192.
 posthumous children, Alta., 199; Man., 204.
 residuary estate, Alta., 195; Sask., 200; Man., 205.
 Saskatchewan, 195.
 widow and children's shares, Sask., 196; Man., 202.
 widow only, Sask., 197; Man., 202.

Distress, 206.

- costs, 211.
- entry, 209.
- fraudulent removal, 208.
- goods not seizable, 209.
- how distress made, 209.
- irregular distress, 211.
- illegal or wrongful distress, 211.
- replevin, 210.
- seizure, valuation, sale, 210.
- when distress should be suspended, 210.
- when distress should be made.
- when the right of distress arises, 208.
- where goods may be distrained, 207.
- who may distrain, 208.
- whose goods may be distrained, 208.

Domestic Animals, 211.

- animals at large, 211, 212, 215, 216.
- damage actions, Alta., 214.
- entire animals, Alta., 213; Sask., 216.
- infected animals, Sask., 216.
- mischievous animals, 212, 213.
- prohibited animals, Alta., 214.
- stray animals, Alta., 214.

Dower, 217.

- acts, Alta., 217; Sask., 221; Man., 228.
- assignment for benefit of creditors, Sask., 224.
- acknowledgement by wife, Alta., 220.
- caveat, Sask., 224.
- certificate of officer, Sask., 223.
- change of residence, Alta., 219; Man., 229.
- courts powers of giving consent Man., 233.
- declarations of wife, Sask., 223.
- disposing of property, Alta., 218; Sask., 222; Man., 228.
- election by widow, Man., 236, 237.
- fraud, Sask., 225.
- homestead, Alta., 217; Sask., 221; Man., 227.
- husbands' rights, Man., 240.
- husband and wife living apart, Man., 239.
- implied consent, Alta., 221.
- mortgage, Man., 233.
- powers of attorney, Man., 232.
- release of rights, Man., 230.
- transfers otherwise executed, Sask., 224.

- validation of instruments, Sask., 226.
- valuation of property, Man., 235.
- wife's caveat, Sask., 224.
- wife's consent, Alta., 218; Man., 229, 231.
- wives under age, Alta., 220.
- widows rights preserved, Sask., 225; Man., 234, 235.
- widow's share of debt, Man., 238.

E.**Exemptions, 240.**

- act, Alta., 240; Sask., 242; Man., 246.
- articles subject of suit, Alta., 242; Man., 248.
- alimony orders, Sask., 245.
- absconding debtors, Alta., 242; Sask., 244.
- building materials, Man., 248.
- chattel mortgages, Sask., 245.
- debtors' choice, Alta., 242; Sask., 244; Man., 248.
- exemptions, Alta., 240; Sask., 242; Man., 246.
- exempted property not to be seized, Man., 249.
- growing crops, Man., 248.
- insurance, Man., 247.
- partnerships, Man., 248.
- persons removing from province, Man., 248.
- rights of family of deceased debtor, Alta., 242; Sask., 244.
- what is not exempted, Sask., 244.

F.**Farm Loans, 249.**

- acts, Alta., 249; Sask., 252; Man., 253.
- advances by instalments, Man., 258.
- associations, Man., 253, 260.
- board, Alta., 250; Sask., 252.
- capital stock, Man., 254.
- extent of loan, Alta., 250; Man., 256.
- failure of applicant to take up loan, Man., 258.
- farm loan board, Alta., 250; Sask., 252; Man., 253.
- how loans are made, Alta., 250; Sask., 252; Man., 254.
- how loan is paid off, Alta., 251.
- interest on loans, Man., 255.
- insurance policy, Man., 257.
- mortgage loans, Man., 255, 257.

mortgagor in default, Sask., 252.
 maximum loan, Man., 256.
 repayment of loan, Man., 259.
 reports on lands and buildings,
 Man., 257.
 what loan can be used for, Alta.,
 251; Man., 256, 258.
 who cannot obtain loan, Alta.,
 251, Man., 256.

Fire Insurance, 260.

assignment of policy, 262.
 arson, 261.
 goods substituted, 262.
 interim receipt, 261.
 payment of premiums, 261.
 policy, 260.
 spontaneous combustion, 261.
 statements by agents, 263.
 statutory conditions, 263.
 when insurance recoverable, 261.
 who may insure, 262.

Franchise, 264.

act, 264.
 advance polls, 269.
 allegiance, 266.
 blind and illiterate voters, 275.
 commercial travellers, 269, 275.
 counting the vote, 275.
 disqualification of electors, 265.
 Dominion election, 264.
 election day poll, 271.
 how to become a voter, 267.
 manner of voting, 273.
 name not on list, 273.
 nationality, 266.
 naturalization, 266.
 poll on election day, 271.
 qualification of electors, 264.
 railway employees, 275, 269.
 spoiled ballot paper, 275.
 sailors, 275, 269.
 voter, how to become a, 267.
 voters' lists, 268.
 voting and marking ballot, 274.
 where to vote, 272.

G.

Grain, 278.

act, 278.
 allotting cars, 288.
 cars, 288, 292.
 chief inspector's duties, 285.
 cleaning grain, 279.
 complaints, 296.
 commission merchants, 293, 295.
 delivery at terminal, 284.
 delivery of grain, 281.
 dockage, 285, 297.
 elevators, 278.

forwarding grain to terminal
 elevators, 282.
 grade or dockage, 285.
 how cars are allotted, 290.
 loading platforms, 286, 288.
 operation, 279.
 operators' rights of shipment,
 284.
 ordering cars, 283, 289.
 sample of grain, 285.
 track buyers, 295.
 warehouse receipts, 280.

H

Hail Insurance, 298.

general, 298.
 municipal, see MUNICIPAL HAIL
 INSURANCE.

Herd Law, 298.

Alberta, 298.
 Manitoba, 301.
 Saskatchewan, 299.

Homesteads, 302.

act, 302.
 abandonment of entry, 305.
 alien-homesteaders, 311.
 application for entry, 302.
 application to sub-agents, 303.
 cancellation of entry, 305.
 cancellation for timber, 306.
 cultivation, 310.
 declaration as to improvements,
 304.
 issuing title, 309.
 keeping stock, 308.
 patent, 309.
 personal application, 304.
 residence and cultivation, 310.
 requirements, 310.
 selling homestead before patent,
 310.
 stock, 308.
 stock, in lieu of cultivation, 306.
 timber permits, 312.
 time for perfecting entry, 305.
 water supply and harbours
 standings, 306.
 what constitutes entry, 302.

I.

Immigration, 312.

Chinese immigration, 313.
 general, 312.

Income Tax, 314.

amount, 318, 319, 320.
 appeal, 330, 331.
 assessment, levy and collection,
 327.

corporations, 321.
deductions, 321.
dividends, 316, 324.
estates, 316.
exemptions, 323.
generally, 314.
holding companies, 315.
levy, 327.
living expenses, 324.
losses, 324.
non-taxable incomes, 317.
non-residents, 315.
partnerships, 321.
pensions, 316.
persons, 318.
profits of corporation, 315.
recovery of tax, 332.
returns, 324, 326.
revision court, 329.

Interest, 332.

finer and penalties, 334.
generally, 332.
judgment debt, 335.
per annum, 333.
rate of interest, 332.
rate recoverable, 334.
real estate mortgages, 333.
where no rate fixed, 333.

J.

Judgments, 336.

attachment, 337, 338.
creditors' relief, 337.
executions, 336.
generally, 336.

Juvenile Delinquents, 338.

act, 338.
bail, 344.
clerks, 342.
child not allowed amongst criminals, 349.
children under 12 years, 350.
courts, 340.
committees, 350.
contributing to delinquency, 353.
definition, 339.
detention pending trial, 343.
fines, damages and costs, 347.
generally, 338.
informal trial, 344.
indictable offences, 341, 353.
notices of parents, 342.
oath, 345.
procedure for trial, 341.
private trials, 342.
probation, 345, 352.
trial procedure, 341, 344, 347.
wards of court, 346.

L.

Leases and Tenancies, 355.

assignment of lease, 358.
covenants, 357.
fixed tenancies, 359.
forfeiture for non-performance of covenant, 359.
generally, 355.
non-payment of rent, 359.
periodic tenancies, 356.
tenants' covenants, 358.
tenancies for fixed periods, 356.
underleases, 358.
yearly tenancies, 355.

Lien Notes, 360.

act, Alta., 360; Sask., 365; Man., 369.
affidavit of bona fides, Alta., 361; Sask., 367.
assignment of lien notes, Sask., 368.
correcting registers, Alta., 363; Sask., 369.
discharge, Alta., 364.
first registration, Alta., 361.
fixtures, Alta., 364; Sask., 368; Man., 371.
further registration on removal, Alta., 361; Sask., 366.
goods which become fixtures, Alta., 364.
manufactured goods, Man., 369.
marking the goods, Alta., 363.
registration, Alta., 361; Sask., 366.
renewal registration, Alta., 362; Sask., 367.
retaking possession, Alta., 364; Sask., 369.
sale after retaking possession, 365.
special marking, Sask., 369.

Life Insurance, 372.

agents, 373.
amount recoverable, 373.
cancellation of policy, 374.
concealing facts, 373.
days of grace, 375.
policy, 372.
periods when profits apportioned, 375.
rates and premiums, 374.
rebates, 375.
who may insure, 372.
when policy begins to run, 374.

Limitation of Actions, 375.

actions against railways, 377.
contracts under seal, 376.
debts, 376.

acknowledgment of debt in writing, 378.
 date of commencement, 377.
 generally, 375.
 interest, 376.
 lands, 376.
 recovery of goods, 376.
 recovery of lands, 376.
 rent, 376.
 time when limitation begins, 377.
 wrongs, 377.

Luxury Taxes, 379.

act, 379.
 bank cheques, 384.
 bills and notes, 381, 384.
 berths and palour car tickets, 380.
 cheques, 380.
 express orders, 386.
 letters and post cards, 387.
 luxury tax, 390.
 matches, 387.
 overdrafts, 383.
 post cards, 387.
 post office orders, 386.
 postal notes, 386.
 promissory notes, 381.
 receipts for money, 384.
 sales tax, 388.
 stamps on cheques, 380.
 stock and shares transferred, 385.
 tickets on railways, 379.
 vessel tickets, 380.

M.

Master and Servant, 390.

breaking contract, 393.
 character testimonial, 392.
 contract, 391.
 dismissal without notice, 394.
 domestic servants, 390.
 expenses, 392.
 food and clothing, 392.
 generally, 390.
 illness of servant, 393.
 leaving without notice, 393.
 medical attendance, 392.
 notice, 394.
 service contract, 391.
 testimonials, 392.
 wages, 392.
 who may be masters, 391.
 who may be servants, 391.

Milk, 394.

adulteration, 394, 396.
 evidence of adulteration, 396.
 inspecting premises, 395.
 milk test, 396.
 persons responsible, 395.

Mischievous Animals, 397.

animals considered mischievous, Alta., 397.
 dogs, Man., 399.
 how dealt with, Alta., 397.
 wild horses, Alta., 398.

Motor Cars, 399.

accidents, 400.
 furious driving, 400.
 theft of motor cars, 400.
 using car without consent, 400.

Municipal Hail Insurance, 401.

act, Alta., 401; Sask., 417; Man., 435.
 associations, Sask., 417.
 adjustment and award, Alta., 412.
 amount payable by districts, Alta., 416, 415; Sask., 432.
 area under insurance, Alta., 401.
 assessment of tax, Alta., 415; Sask., 423, 428.
 appointment of auditors, Alta., 408.
 approval of electors, Alta., 401.
 appointment of auditors, Alta., 408.
 board, Alta., 404; Sask., 418.
 borrowing money, Alta., 416; Sask., 432.
 crop reports, Alta., 408.
 claims, Alta., 411.
 disorganization, Alta., 403.
 manager, Alta., 407.
 meetings, Alta., 404; Sask., 418.
 maximum indemnity, Alta., 413; Sask., 431.
 payment of claims, Alta., 414.
 penalties, Alta., 417.
 rate, Alta., 414; Man., 436.
 remuneration of board, Alta., 414.
 vacancies on board, Alta., 407; Sask., 419.
 withdrawals, Alta., 410; Sask., 425.

N.

Naturalization, 441.

act, 441.
 aliens, 445.
 alien enemies, 446.
 application, 441.
 children, 448.
 court order, 442.
 discretion, 445.
 effect of naturalization, 443.
 issue of certificate, 442.
 married women, 447.
 opposing the application, 442.

persons under disability, 443.
posting application, 441.
previous naturalization, 444.
qualifications, 442, 444.
revocation, 448.
residence, 444.
special certificates, 443.
service with crown, 445.
trial of aliens, 446.
women marrying aliens, 445.
widows, 447.

Notary Public, 451.

appointments, 451.
duties, 451.
penalties, 451.

Notice to Quit, 452.

form, 452.
generally, 452.
time when notice takes effect, 453.
who must be served with notice, 452.
when given, 453.

O.

Oleomargarine, 454.

cancelling licenses, 454.
generally, 454.
importation, 454.
labelling, 455.
licenses, 454.
manufacture, 454.
penalties, 455.
regulations, 455.
sale, 454.

P.

Partnership, 456.

acts of partners, 457.
debts of firm, 457.
definitions, 456.
dissolution, 460.
dying or outgoing partners, 458.
firms, 456.
holding out as a partner, 458.
how formed, 456.
incoming partners, 458.
misapplication of moneys, 458.
notice, 458.
retiring partners, 459.
trust moneys, 458.
property, 459.
termination, 459.
winding up, 460.

Pound Law, 461.

animals at large, Alta., 463;
Sask., 475.
common law rights, Alta., 471.

charges for impounding, Alta., 466.
complaints against poundkeeper, Alta., 468; Sask., 482.
districts, Alta., 462.
distress of animals, Sask., 475.
fees, Alta., 473; Sask., 484.
impounding, Alta., 463; Sask., 476.
lawful fence, 464.
notification of animal being impounded, Alta., 467; Sask., 478.
occupier's rights, Alta., 463.
offences, Alta., 471; Sask., 483.
owner known, Alta., 464.
pounds, Sask., 477.
poundkeepers, Alta., 465.
sale of animal, Sask., 479, 481.
temporary impounding, Sask., 475.

R.

Rent, 486.

accelerated rents, 486.
generally, 486.
how payable, 486.
premises destroyed by fire, 487.
to and by whom payable, 486.
tenant evicted, 487.
when and where payable, 486.

Rural Credits, 487.

acts, Alta., 488; Sask., 489;
Man., 489.
co-operative societies, Alta., 488; Sask., 489; Man., 489.
generally, 487.

S.

Stray Animals, 505.

animals considered estrays, Alta., 505; Sask., 513; Man., 519.
brand readers' duties, Alta., 508.
duties of finder, Alta., 506;
Sask., 513; Man., 519.
expenses, Sask., 514.
fees, Alta., 510; Sask., 517;
Man., 523.
Justice's duties, Alta., 508;
Man., 521.
offences and penalties, Alta., 511; Sask., 517; Man., 523.
owners' duties, Alta., 507; Man., 520.
reading the brand, Alta., 507.
sale of estrays, Alta., 509;
Sask., 515; Man., 521-522.
unclaimed estrays, Man., 522.

W.

Wills, 524.

- execution, 525.
- form, 524.
- persons entitled to make a will, 525.
- property to which will applies, 525.
- revoking, 526.
- when a will takes effect, 525.
- who may make, 525.

Women's Rights, 527.

- debts, 528.
- dower, 527.
- insurance, 529.
- lands and goods, 528.
- stocks and bonds, 528.
- wills, 529.

Workmen's Compensation, 529.

- act, Alta., 529; Sask., 536; Man., 546.
- agricultural and farm work, Alta., 529; Sask., 543; Man., 578.

- contracting out, Sask., 539.
- compensation, Alta., 530-532; Sask., 544; Man., 560.
- definitions, Sask., 537; Man., 546.
- disability, Alta., 530-532.
- fatal accidents, Alta., 531.
- first aid, Man., 560.
- fund, Alta., 530; Man., 567.
- insolvency of employer, Alta., Alta., 541.
- medical aid, Alta., 531.
- notice, Alta., 536; Sask., 545; Man., 554.
- partial disability, Alta., 531; Man., 563.
- permanent disability, Alta., 531; Man., 550.
- special benefits, Alta., 533.
- sub-contractors, Sask., 540.
- what employer must do, Alta., 534; Man., 535.
- what workman must do, Alta., 535; Man., 536.

